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TUESDAY, SEPTEMBER 26, 1978

THE NATIONAL ARCHIVES OF THE UNITED STATES
SITTERA SCRIPTA MANET
1934

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October 27 and 28, 1978

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

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1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between Federal Register and the Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

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WHERE: Office of the Federal Register, Room 9409, 1100 L Street NW., Washington, D.C.

RESERVATIONS: Call Mike Smith, Workshop Coordinator, 202–523–5235.

federal register

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[3195-01]

Title 3—The President

PROCLAMATION 4601

National Good Neighbor Day, 1978

By the President of the United States of America

A Proclamation

As our Nation struggles to build friendship among the peoples of this world, we are mindful that the noblest human concern is concern for others.

Understanding, love, and respect build cohesive families and communities. The same bonds cement our Nation, and the nations of the world.

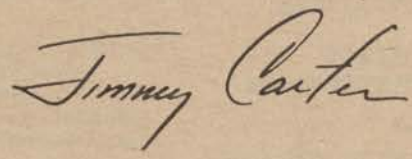
For most of us, this sense of community is nurtured and expressed in our neighborhoods where we give each other an opportunity to share and feel part of a larger family.

In recognition of the importance of fostering compassion and respect in ourselves for our neighbors, the Congress has requested the proclamation of September 24, 1978, as National Good Neighbor Day (S.J. Res. 133).

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby proclaim Sunday, September 24, 1978, as National Good Neighbor Day.

I call upon the people of the United States and interested groups and organizations to observe such day with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-second day of September, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and third.



[FR Doc. 78-27243 Filed 9-25-78; 11:03 am]

rules and regulations

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

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

[6325-01]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Administrative Office of the U.S. Courts

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: To allow coverage of an additional source of qualified candidates that does not change the impracticability of competitive examination for the positions, this amendment adds Pretrial Services Officers to the kinds of candidates who may fill Federal Probation System Administrator positions excepted under schedule B in the Administrative Office of the U.S. Courts.

EFFECTIVE DATE: September 15, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Sherwin, 202-632-4533.

Accordingly, 5 CFR 213.3272(a) is amended as set out below:

§ 213.3272 Administrative Office of the U.S. Courts.

(a) Not to exceed 13 positions of Federal Probation System Administrator in the Division of Probation, when filled by Federal Probation Officers and/or Pretrial Services Officers on active service in the U.S. Courts.

* * * * *

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

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant To the Commissioners.

[FR Doc. 78-26915 Filed 9-25-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Department of Health, Education, and Welfare

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: Ten positions of interns, residents, and fellows for work in mental health and deafness at St. Elizabeths Hospital are excepted under schedule A because it is impracticable to examine for them. No one may serve more than 1 year under this authority.

EFFECTIVE DATE: September 16, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Sherwin, 202-632-4533.

Accordingly, 5 CFR 213.3116(a)(12) is added as set out below:

§ 213.3116 Department of Health, Education, and Welfare.

(a) *St. Elizabeths Hospital* * * *

(12) Ten positions of interns, residents, and fellows for work in mental health and deafness. Employment under this authority may not exceed 1 year for any individual.

* * * * *

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

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

[FR Doc. 78-26914 Filed 9-25-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Department of Housing and Urban Development

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The position of Deputy Special Assistant to the Secretary for Indian and Alaska Native Programs, Department of Housing and Urban Development, is excepted under schedule B because it is impracticable to hold a competitive examination for it.

EFFECTIVE DATE: September 15, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael D. Sherwin, 202-632-4533.

Accordingly, 5 CFR 213.3284 is added as set out below:

§ 213.3284 Department of Housing and Urban Development

(a) *Office of the Secretary.* (1) One Deputy Special Assistant for Indian and Alaska Native Programs.

* * * * *

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

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

[FR Doc. 78-26913 Filed 9-25-78; 8:45 am]

[3410-96]

Title 7—Agriculture

SUBTITLE—OFFICE OF THE SECRETARY OF AGRICULTURE

PART 0—EMPLOYEE RESPONSIBILITIES AND CONDUCT

Final Rules

AGENCY: Office of Personnel, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture revises its regulations on employee responsibilities and conduct. The revision incorporates into the Department's regulations adequate criteria to identify positions whose incumbents should file employment and financial disclosure statements; clarifies procedures to assure the prompt collection of such statements; and provides procedures for the coordination and monitoring of the activities of review officials to enhance consistency and avoid confusion in the review of

employment and financial statements. The revisions of Part 0 will assure an effective employment and financial disclosure system.

EFFECTIVE DATE: September 26, 1978.

FOR FURTHER INFORMATION CONTACT:

Clyde W. Fisk, Chief, Security and Employee Relations Division, Office of Personnel, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-7654.

SUPPLEMENTARY INFORMATION: The revision of Part 0, Title 7 also contains numerous editorial and clarifying changes. These appear in §§ 0.735-2, 0.735-3, 0.735-4, 0.735-11, 0.735-12, 0.735-13, 0.735-14, 0.735-15, 0.735-19, 0.735-20, 0.735-23, 0.735-24, 0.735-31, 0.735-33, 0.735-34, 0.735-35, 0.735-36, and 0.735-42. These changes are as follows: redefines "Agency" and "Agency Head" and adds definitions for "Supervisor," "Outside employment or activity," and "Members of family"; authorizes the General Counsel to designate the Department Counselor; provides that Agencies may issue such additional regulations as are necessary, consistent, and of necessity more restrictive than these regulations, subject to the prior approval of the Director of Personnel; provides an exception to the monitoring or recording of telephone and nontelephone conversations in criminal investigations; includes substantial changes in the existing law regulating the acceptance and retention by employees of gifts and decorations from foreign governments; contains additional restrictions on an employee's outside employment or activity; restricts an employee from disclosing information obtained in his or her employment for the benefit of another; eliminates the exemption concerning the reporting of stocks, bonds, and other securities when the aggregate value is less than $5,000 and less than 1 percent of the value of the outstanding stocks, bonds or other securities; provides that tardiness can result in a charge to annual leave in multiples of 15 minutes; provides that the approval of leave is reserved to the supervisor and conditioned on the needs of the Service; permits an employee to run for elective office if authorized by the Department or by the Civil Service Commission regulations; contains several references to the Freedom of Information Act; restricts employees from purchasing products or receiving services directly or indirectly from persons, firms, or establishments for which such employees conduct inspection, grading, or similar regulatory activities without express approval from their Agency; deletes several miscellaneous statutory provisions relating to the Commodity Futures Trading Commission, Environmental Protection Agency and Sugar Act; includes several new statutory provisions and lists all statutory provisions in numerical order according to U.S. Code citations; requires employment and financial statements from certain types of employees when their duties and responsibilities could affect the agriculture industry and from all employees who perform functions under the Surface Mining Control and Reclamation Act; provides appropriate disciplinary action for an employee who refuses to file an employment and financial statement; requires that initial statements be submitted prior to appointment to a position requiring the submission of a statement; requires supplementary statements to be reported as of March 31 and submitted no later than April 30 of each year; expands the types of interests to be reported; and revises the responsibilities of Agency Heads with respect to the review and determination of statements and indicates the level to which such responsibilities can be delegated.

Accordingly, 7 CFR Part 0 is revised to read as follows:

Subpart A—General Provisions

Sec.

0.735-1 Purpose.
0.735-2 Definitions.
0.735-3 Counseling and advisory service.
0.735-4 Agency supplementation.
0.735-5 Remedial action.
0.735-6 Responsibilities of supervisors.

Subpart B—Conduct and Responsibilities of Employees

0.735-11 Prohibited conduct—general.
0.735-12 Gifts, gratuities, entertainment, and favors.
0.735-13 Outside employment and activities.
0.735-14 Conflict of interest.
0.735-15 Attendance and leave.
0.735-16 Use of Government property, facilities and services.
0.735-17 Use of vehicles.
0.735-18 Indebtedness.
0.735-19 Political activity.
0.735-20 Use, protection, and release of information.
0.735-21 Activities with regard to farm organizations.
0.735-22 Prohibitions upon employees serving abroad.
0.735-23 Miscellaneous provisions.
0.735-24 Miscellaneous statutory provisions.

Subpart C—Statements of Employment and Financial Interests

0.735-31 Employees required to submit statements.
0.735-32 Exceptions.
0.735-33 Identification of employees required to submit statements.
0.735-34 Time and place for submission of employees' statements.
0.735-35 Supplementary statements.
0.735-36 Types of interests to be reported.
0.735-37 Information prohibited.
0.735-38 Interests of employee's relatives.
0.735-39 Information not known by employee.
0.735-40 Effect of employee's statement.
0.735-41 Specific provisions for special Governments employees.
0.735-42 Review of statements and determination of conflicting interests.
0.735-43 Protection of employees' statements.

AUTHORITY: Executive Order 11222 of May 8, 1965, 30 FR 6469, 3 CFR, 1965 Supp; 5 CFR 735.104.

Subpart A—General Provisions

§ 0.735-1 Purpose.

The maintenance of unusually high standards of honesty, integrity, impartiality, and conduct by Government employees and special Government employees is essential to assure the proper performance of the Government business and the maintenance of confidence by citizens in their Government. The confidence of citizens in their Government is influenced not only by the manner in which employees serve the public but in the way they conduct themselves in the eyes of the public. The avoidance of misconduct and conflicts-of-interests on the part of Government employees through informed judgment is indispensable to the maintenance of these standards. To accord with these concepts, this part sets forth the regulations for employees of the U.S. Department of Agriculture, prescribing standards of conduct and responsibilities and governing the reporting of employment and financial interests.

§ 0.735-2 Definitions.

In this part:

(a) "Agency" means an independent subagency or departmental staff office of the U.S. Department of Agriculture.

(b) "Agency Head" means the Administrator or Chief Executive Officer of an independent subagency or departmental staff office.

(c) "Conflict-of-interest" means a situation in which a Federal employee's private interest, usually of an economic nature, conflicts with his or her Government duties and responsibilities.

(d) "Appearance of conflict-of-interest" means a situation where it could reasonably be concluded that an employee's private interest is in conflict with his or her Government duties and responsibilities, even though there may not actually be such a conflict.

(e) "Employee" means a regular officer or employee of the Department of Agriculture including excepted and WOC employees and includes a special Government employee unless otherwise provided.

(f) "Special Government employee" means an officer or employee of the Department of Agriculture who is re-

tained, designated, appointed, or employed to perform temporary duties either on a full-time or intermittent basis, with or without compensation, for not to exceed 130 days during any period of 365 consecutive days.

(g) "Supervisor" means an employee having authority, in the interest of an Agency, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees or responsibility to direct them, or to adjust their grievance, or effectively recommend such action, if in connection with the foregoing the exercise of authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

(h) "Outside employment or activity" means any outside work, service, or activity performed by an employee other than in the performance of official duties. It includes but is not limited to such activities as writing, editing, publishing, teaching, lecturing, consulting services, self-employment, working for another employer, management or operation of a private business, personally owned business, partnership, corporation, or any work perfomed with or without compensation.

(i) "Members of family" means those blood and in-law relations who are residents of the employee's household.

(j) "The Executive Order" means Executive Order 11222 of May 8, 1965.

§ 0.735–3 Counseling and advisory service.

(a) The General Counsel shall designate an employee of the Office of the General Counsel to serve as the Department Counselor and designee to the Civil Service Commission on matters covered by the regulations in this part. Employees shall be notified semiannually of the name and title of the Department Counselor and also upon the designation of a new employee to that position. The Department Counselor shall have overall responsibility for coordination of the Department's counseling and advisory service, and for assuring advice and interpretations on questions of conflict or apparent conflicts-of-interest and other matters covered by the regulations in this part are available to Deputy Counselors and Assistant Deputy Counselors hereinafter designated.

(b) The Director of Personnel and the Chief, Security and Employee Relations Division, Office of Personnel, shall be Department Deputy Counselors.

(c) Agency Heads will be Agency Deputy Counselors. If necessary, in order to assure that counseling and advisory service is available to all Washington and field employees, the Agency Head may designate as Agency Assistant Deputy Counselors such employees as are qualified and in a position to give authoritative advice and guidance on most matters covered by this part.

(d) All employees are to be notified of the availability of counseling and by whom this service is provided. Initial notification must be made within 90 days after issuance of this part, and perodically thereafter. A new employee or new special Government employee must be notified at or before the time of his or her entrance on duty.

(e) Each new employee shall be furnished at the time of hiring a copy of this part. Current employees shall be furnished a copy of these regulations within 90 days following issuance. Subsequent changes to these regulations will be furnished employees upon issuance. Each employee shall be reminded of the regulations in this part semiannually.

(f) The regulations in this part will be discussed with each employee annually in conjunction with the employee's performance evaluation. Each employee will certify on the performance evaluation form or other Agency form that he or she has a copy of this part and has discussed it with his or her supervisor.

§ 0.735–4 Agency supplementation.

Agencies of the Department may issue such additional regulations as are necessary, consistent, and of necessity more restrictive than the regulations in this part, subject to the prior approval of the Director of Personnel. Agencies are expected to issue such supplemental regulations, with respect to employees assigned to particular programs, as are necessary to prevent such employees from being in a potential conflict-of-interest situation or a situation giving the appearance of a conflict-of-interest. Such Agency regulations shall be furnished to employees in the same manner as the regulations in this part.

§ 0.735–5 Remedial action.

(a) A violation of this part by an employee may be cause for remedial action. Remedial action may include, but is not limited to:

(1) Changes in assigned duties;

(2) Divestment by the employee of a conflicting interest;

(3) Disqualification for a particular assignment; or

(4) Disciplinary action which may be in addition to any penalty prescribed by law.

(b) Remedial action, whether disciplinary or otherwise, shall be effected in accordance with any applicable laws, Executive Orders, and regulations.

§ 0.735–6 Responsibilities of supervisors.

(a) Supervisors, because of their day-to-day relationships with employees, are responsible to a large degree for maintaining high standards of ethics and conduct. They must become familiar with the regulations in this part and apply the standards to themselves and employees they supervise.

(b) Supervisors shall advise an employee who comes to them with questions on matters covered by these regulations, or when they consider it appropriate, refer the employee or the questions to a counselor designated in § 0.735–3.

Subpart B—Conduct and Responsibilties of Employees

§ 0.735–11 Prohibited conduct—general.

(a) An employee shall avoid any action, whether or not specifically prohibited by this subpart, which might result in or create the appearance of:

(1) Using public office for private gain;

(2) Giving preferential treatment to any person;

(3) Impeding Government efficiency or economy;

(4) Losing complete independence or impartiality;

(5) Making a Government decision outside of official channels; or

(6) Affecting adversely the confidence of the public in the integrity of the Government.

(b) Employees are specifically prohibited from:

(1) Engaging in criminal, infamous, dishonest or notoriously disgraceful conduct, or other conduct prejudicial to the Government;

(2) Betting or participating in any gambling activity, including the operation of a gambling device, conducting a lottery or pool, or selling or buying a number slip or ticket, while on Government-owned or leased property or while on duty for the Government;

(3) Using intoxicating beverages or narcotic drugs on Government-owned or leased property, or transporting such beverages or drugs in Government-owned or leased vehicles, or using such beverages or drugs at any time or place to the extent that it adversely affects performance of official duties;

(4) Lending funds at usurious interest rates;

(5) Provoking or harassing other employees, or making unwarranted criticism or accusations against other employees;

(6) Except as authorized by the Inspector General with the consent of a party to the conversation when necessary in criminal investigations, monitoring or recording, or authorizing or permitting others under their administrative control to monitor or record, telephone conversations for the purpose of taking a verbatim transcript of all or part of the conversation unless such monitoring or recording is agreed

to in advance by all participants in the conversation;

(7) Except as authorized by the Inspector General with the consent of a party to the conversation when necessary in criminal investigations, utilizing a mechanical or electronic device to monitor or record nontelephone conversations, unless such monitoring or recording is agreed to in advance by all participants in the conversation;

(8) Soliciting, making collections, canvassing for the sale of any article, or distributing or posting literature, advertising matter, or any other graphic matter, in any space occupied by the Department, except as authorized in writing by the Director of Personnel;

(9) Soliciting money from, or selling tickets to, persons outside the Government for the benefit of any organization of the Department;

(10) Taking any action which might prejudice the Government's interest in a criminal or civil case;

(11) Giving aid or assistance, other than in the discharge of official duties, to any claimant in prosecuting any claim against the United States; or

(12) Distributing through the Department's mail and messenger service, or otherwise distributing or posting, in any space occupied by the Department, any circulars, flyers, announcements, pictures, or other graphic matters, etc., that:

(i) Directly or indirectly attack or adversely reflect on the integrity of any official, officer or employee of any branch of the Government; or

(ii) Directly or indirectly condemn or criticize the policies of any Government department or agency.

§ 0.735–12 Gifts, gratuities, entertainment, and favors.

(a) Except as provided in paragraphs (c) and (f) of this section, employees shall not solicit or accept, for themselves or another person, directly or indirectly, any gift, gratuity, favor, entertainment, loan, unusual discount, special consideration or any other thing of monetary value (including complimentary meals and beverages, tangible items, tickets and passes) from any interested party. An "interested party" is any person, firm, corporation, other entity, or an individual acting in behalf thereof, which:

(1) Has or is seeking to engage in, procurement activities or other contractual, business, or financial relations with the Department;

(2) Conducts operations or activities that are regulated by the Department; or

(3) Has interests that may be substantially affected by the performance or nonperformance of the official duty of the employee concerned.

(b) Gifts, gratuities, favors, entertainment, loans, unusual discounts, special considerations and any other thing of monetary value bestowed upon members of the employee's immediate family are considered to be the same as if bestowed upon the employee. Acceptance of items, no matter how innocently offered or accepted from "interested parties" may be a source of embarrassment to the Department and the employee involved, may affect the objective and impartial judgment of the employee, and may impair confidence of the public in the integrity of the employee and the Department.

(c) The restrictions in paragraph (a) of this section do not prohibit:

(1) Exchange of social gifts in an obvious family or personal relationship (such as those between the employee and parents, spouse, children, or close personal friends of the employee) when the circumstances make it clear that it is those relationships rather than the business of the "interested party" which are the motivating factors;

(2) Exchange of customary social courtesies which are wholly free of any embarrassing or improper implications, and which are of trivial value (e.g., soft drink or cup of coffee);

(3) Acceptance of loans from banks or other financial institutions on customary terms to finance proper and usual activities of employees, such as automobile and home mortgage loans;

(4) Acceptance of unsolicited advertising or promotional material of clearly trivial value, such as: pens, pencils, note pads, calendars, and other things of nominal or trifling value. Acceptance of gifts, such as meat products, alcoholic beverages, fruit baskets, boxes of candy, wallets, jewelry, and cuff links is, however, strictly prohibited; or

(5) Acceptance of food and refreshments of nominal value on infrequent occasions when the interest of the Government is served by participation of Department employees in industry-sponsored activities at which a luncheon or dinner may be served, and where the discussion of matters of mutual interest to the Government and industry will take place.

(d) An employee shall not solicit a contribution from another employee for a gift to an official superior, make a donation as a gift to an official superior, or accept a gift from an employee receiving less pay than himself or herself (5 U.S.C. 7351). However, this paragraph does not prohibit the voluntary giving or acceptance of a gift of nominal value or donation in a nominal amount made on a special occasion such as marriage, illness, or retirement.

(e) Pursuant to 5 U.S.C. 7342, the acceptance by an employee of a gift, present, decoration or other thing from a foreign government or agent thereof (including an international organization whose membership includes a unit of foreign government, or any agent of a foreign government) is subject to the following conditions:

(1) An employee may not request or otherwise encourage the tender of a decoration or gift (including travel and travel expenses);

(2) An employee may accept and retain a gift that is tendered and received as a souvenir or a mark of courtesy if the gift has a retail value in the United States of $100 or less at the time of acceptance;

(3) An employee may accept a gift of more than $100 when such gift is in the nature of an educational scholarship or medical treatment or when it appears that to refuse the gift would likely cause offense or embarrassment or otherwise adversely affect the foreign relations of the United States. An employee may also accept gifts of travel or expenses for travel entirely outside the United States provided the employee obtains prior approval from the Head of the employing Agency or his or her designee;

(4) The acceptance of a tangible gift of more than $100 is deemed to have been accepted on behalf of the United States and becomes the property of the United States. It must be deposited by the employee within 60 calendar days with his or her employing Agency's Property Management Officer with a statement indicating:

(i) Name and position of the employee;

(ii) Brief description of the gift and the circumstances justifying acceptance;

(iii) Identity, if known, of the foreign government and name and position of the individual who presented the gift;

(iv) Date of acceptance of gift;

(v) Estimated value in the United States of the gift at time of acceptance; and

(vi) Disposition and current location of the gift.

If the gift is for travel or travel expenses, the employee must file a statement with his or her employing Agency Head within 30 calendar days after acceptance indicating: Name and position of the employee, brief description of the gift and the circumstances justifying acceptance, and identity, if known, of the foreign government and name and position of the individual who presented the gift;

(5) An employee may accept, retain, and wear a foreign decoration, if tendered in recognition of active field service or unusually meritorious service and if supported by a statement

from the donor, preferably in the form of a citation, which shows the basis for tender of the award. A request from the Head of the employing Agency for approval of the acceptance of the decoration will be forwarded to the Administrator of the Foreign Agricultural Service or his or her designee for concurrence or disapproval. The request from the employing Agency must contain a recommendation as to whether or not the acceptance, retention, and wearing of the foreign decoration by the employee would be in the best interest of the United States. The Administrator of the Foreign Agricultural Service shall notify the employing Agency of his or her concurrence or disapproval of the retention of the foreign decoration. Disapprovals by the Foreign Agricultural Service shall constitute acceptance on behalf of the United States and the decoration shall be deposited by the employee with the Agency's Property Management Officer within 60 calendar days. The Property Management Officer shall report the decoration as required by the Agriculture Property Management Regulations;

(6) Violation of the provisions of the law including the failure by an employee to report such a gift may result in a civil penalty against the employee for the value of the gift plus $5,000; and

(7) The definition of "employee" includes all employees of the Department, experts, or consultants under contract with the United States, spouses of all such individuals, and blood and in-law relations who are residents of the employee's household.

(f) Neither this section nor § 0.735-13(a) precludes an employee from receipt of bona fide reimbursement, unless prohibited by law, for expenses of travel, and such other necessary subsistence as is compatible with this part for which no Government payment or reimbursement is made. However, this paragraph does not allow an employee to be reimbursed, or payment to be made on his or her behalf, for excessive personal living expenses, gifts, entertainment, or other personal benefits; nor does it allow an employee to be reimbursed for travel on official business under Agency orders when reimbursement is proscribed by decision B-128527 of the Comptroller General dated March 7, 1967 (46 Comp. Gen. 689).

§ 0.735-13 Outside employment and activities.

(a) An employee shall not engage in outside employment or other outside activity not compatible with the full and proper discharge of the duties and responsibilities of his or her Government employment whether on his or her behalf, or for private individuals, firms, companies, institutions, professional societies, or State or local governments. Incompatible activities include but are not limited to:

(1) Outside employment or activity (including the acceptance of a fee, compensation, gift, payment of expenses or any other thing of monetary value) which may result in, or create the appearance of a conflict-of-interest;

(2) Outside employment or activity which tends to impair the employee's mental or physical capacity to perform his or her Government duties and responsibilities in an acceptable manner;

(3) Outside employment or activity that takes the employee's time and attention during his or her official work hours;

(4) Outside employment or activity which may be construed by the public to be official acts of the Department, or of a nature closely paralleling the work of the Department;

(5) Outside employment or activity which involves participation in a commercially sponsored broadcast, or which relates to a written discussion of policies or official work of the Department, unless authorized in advance by the Office of Governmental and Public Affairs;

(6) Outside employment or activity which involves permission, or the appearance of permission to use an employee's name in the advertising of organizations commercializing the results of research conducted by the Department, regardless of any merits which such enterprises may appear to possess;

(7) Outside employment or activity which may involve the use of information secured as the result of employment in the Department and to the detriment of the public service;

(8) Any outside employment or activity which may tend to bring criticism of, or cause embarrassment to, the Department;

(9) Outside employment or activity which would involve the use by the employee of official facilities, e.g., office space, office machines, supplies, telephones, or the services of other employees; and

(10) Outside employment or activity which would involve the violation of a Federal or State statute, a local ordinance, Executive order, or regulation to which the employee is subject.

(b) Outside employment or activity (including self-employment) is permitted to the extent that it does not conflict with other requirements of this part, or tend to create a conflict-of-interest, or appearance of conflict-of-interest, between the private interests of an employee and the employee's official responsibilities. The employee's outside employment or activity shall not reflect discredit on the Government or the Department.

(c) Except as provided in paragraphs (c) (1) through (4) of this section, employees shall obtain advance approval for outside employment or activity whether paid or unpaid. Each Agency shall establish the approval level and shall advise each employee. A record of each approval shall be filed in the employee's official personnel folder. The term outside employment or activity as used in this paragraph does not include:

(1) Memberships in, or volunteer work with, charitable, religious, social, fraternal, recreational, public service, civic, or similar nonbusiness and nonprofit organizations;

(2) Memberships in professional organizations;

(3) Performance of duties in the Armed Forces, Reserve, or National Guard; or

(4) Acting as an officer of a labor organization pursuant to section 18 of Executive Order 11491, as amended.

(d) In considering requests for approval of outside employment, the following criteria should be applied:

(1) The provisions of applicable laws;

(2) The policies incorporated in this part including the possibility of conflict-of-interest or appearance of conflict-of-interest;

(3) The general attendance record of the employee;

(4) The nature of the employee's official duties in relation to the nature of the duties which will comprise the outside employment or activity; and

(5) The amount of time and hours of work required by the outside employment or activity.

(e) Employees are specifically prohibited from acting as the agent of a foreign principal registered under the Foreign Agent's Registration Act (18 U.S.C. 219).

(f) No employee, whether in a duty or nonduty status, shall accept outside employment or activity, with or without compensation, from any foreign government, corporation, partnership, or individual without written prior approval from a counselor designated under § 0.735-3.

(g) It is the policy of the Department to grant permission to an employee to teach, lecture, or write including teaching, lecturing, or writing for the purpose of the special preparation of a person or class of persons for an examination of the Civil Service Commission or Board of Examiners for the Foreign Service, provided:

(1) Prior written authorization is obtained from the agency head, or a counselor designated under § 0.735-3;

(2) Such teaching, lecturing, or writing is not performed at or for any educational institution or other organization that discriminates because of

race, creed, color, sex, age, national origin, or physical or mental handicapped, in the admission or subsequent treatment of students;

(3) Such teaching, lecturing, or writing is not dependent on information obtained as a result of his or her employment or activity with the Department, except when that information has been made available to the general public or when the agency head or agency head's designee gives specific authorization for the use of nonpublic information in the public interest; and

(4) Such teaching, lecturing, or writing is not otherwise incompatible with the provisions of this part.

(h) Articles prepared officially are the property of the Government, and authors thereof may not accept payment for such articles published in outside journals, magazines, or newspapers.

(i) Employees may not accept honorariums for written articles, speaking engagements, or addresses on radio or television or other appearances performed as part of their official duties. This restriction on the acceptance of honorariums applies even if the Government official endorses the check to a charitable organization or asks that the check be sent to a charitable organization.

(j) No employees, except special Government employees, shall accept compensation for services as consultants or advisors to any organization, public or private, in any manner which draws upon the experience, competence, or professional standing acquired or enhanced by or through their position in this Department unless they have received permission from their agency head. Special Government employees shall not use their employment or activity with the Department for a purpose that is, or gives the appearance of being, motivated by the desire for private gain for themselves or another (41 FR 24108, June 15, 1976).

§ 0.735–14 Conflict-of-interest.

(a) The following prohibitions apply to both a regular employee and a special Government employee:

(1) He or she may not have a direct or indirect financial interest that conflicts substantially, or appears to conflict substantially, with his or her responsibilities and duties as a Federal employee;

(2) He or she may not engage, directly or indirectly, in a financial transaction relying upon information obtained through his or her employment for his or her personal benefit or disclose such information for the benefit of another;

(3) He or she may not participate directly or indirectly in any transaction concerning the purchase or sale of corporate stocks or bonds, commodities, or other property for speculative purposes if such action might tend to interfere with the proper and impartial performance of his or her duties or bring discredit upon the Department;

(4) If he or she is concerned in any way with the administration of programs for the purchase or sale of commodities, price support programs, commodity loan programs, or other programs which directly affect market prices of agricultural commodities, he or she may not directly or indirectly speculate in any agricultural commodity;

(5) He or she may not, after his or her Government employment has ended, represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and in which he or she participated personally and substantially for the Government (18 U.S.C. 207(a));

(6) He or she may not, for 1 year after his or her Government employment has ended, represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and which was within the boundaries of his or her official responsibility during the last year of his or her Government service (18 U.S.C. 207(b)); or

(7) Except as permitted by paragraphs (b) and (c) of this section, he or she may not participate personally and substantially as a Government officer or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in a judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which, to his or her knowledge, he or she, his or her spouse, minor child, partner, organization in which he or she is serving as officer, director, trustee, partner, or employee, or any person or organization with whom he or she is negotiating or has any arrangement concerning prospective employment, has a financial interest (18 U.S.C. 208(a)).

(b) The prohibition in paragraph (a)(7) of this section shall not apply if the employee first advises his or her agency head or the director of personnel of the nature and circumstances of the particular Government matter involved and makes full disclosure of the financial interest and receives in advance a written determination made by the agency head of the director of personnel that the interest is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect from the employee. Authority to make such written determinations may not be redelegated by the agency head or the director of personnel.

(c) Any holding in a widely held mutual fund or regulated investment company which does not specialize in a particular industry or commodity and as to which the employee has no managerial control or directorship, except where otherwise prohibited by statute or regulation, are exempted from the prohibition in paragraph (a)(7) and the requirements of paragraph (b) of this section as being too remote or too inconsequential to affect the integrity of an employee's services to the Government.

(d) The following prohibitions apply only to a regular employee:

(1) He or she may not, except in the discharge of his or her official duties, represent anyone else before a court or Government agency in a matter in which the United States is a party or has an interest (18 U.S.C. 203 and 205); or

(2) He or she may not receive any salary or supplementation of his or her Government salary, from a private source as compensation for his or her services to the Government (18 U.S.C. 209).

(e) The following prohibitions apply only to a special Government employee:

(1) He or she may not, except in the discharge of his or her official duties, represent anyone else before a court or Government agency in a matter in which the United States is a party or has an interest and in which he or she has at any time participated personally and substantially for the Government (18 U.S.C. 203 and 205); or

(2) He or she may not, except in the discharge of his or her official duties represent anyone else in a matter pending before the Government agency he or she serves unless he or she has served there no more than 60 days during the past 365 days (18 U.S.C. 203 and 205).

(f) This section does not preclude an employee from:

(1) Acting without compensation, and if not inconsistent with the faithful performance of his or her duties, as agent or attorney for any person who is the subject of disciplinary, loyalty, or other personnel administration proceedings in connection with those proceedings;

(2) Giving testimony under oath or making statements required to be made under penalty for perjury or contempt; or

(3) Having a financial interest or engaging in financial transactions to the same extent as a private citizen not employed by the Government, provided it is not prohibited by law, Executive Order 11222, 5 CFR Part 735,

this part, or Agency regulations supplementing this part.

(g) This section does not purport to paraphrase the restrictions contained in 18 U.S.C., Chapter 11. The omission of a restriction in no way relieves an employee of the legal effect of such restriction.

§ 0.735–15 Attendance and leave.

(a) Employees must observe designated duty hours and be punctual in reporting for work and returning from lunch periods. Tardiness can result in employees being placed in a nonpay status or in a charge against annual or compensatory leave in multiples of 15 minutes or 1 hour as appropriate, and/or subject to disciplinary action.

(b) Employees normally must obtain advance authorization for absence from duty. Approval of leave is a discretionary matter reserved to the supervisor. The taking of leave is not an absolute right afforded the employee but is conditioned on the needs of the Service. Where absence from duty results from illness or an emergency, employees are required to notify their supervisor or other appropriate person as soon as possible. When an employee fails to properly notify his or her supervisor, absence may be charged as an unauthorized absence. It also may result in appropriate disciplinary action.

(c) Sick leave is to be used by employees only when they are incapacitated from duty because of sickness or injury, when they need to obtain medical, dental, or optical examination or treatment, when they are subject to quarantine imposed by local health authorities, or when they are required to give care to a member of their immediate family who has a contagious disease.

§ 0.735–16 Use of Government property, facilities, and services.

(a) Employees are prohibited from directly or indirectly using, or allowing the use of, Government property, facilities, or services of any kind, including those leased to or otherwise paid for by the Government, for other than officially approved activities. Employees have a positive duty to conserve and protect Government property.

(b) Personal property offered for sale by the Department may be purchased by employees only when the sale of such property is based upon competitive bids: *Provided*, That no purchase may be made, either directly or indirectly, by the employee who was formerly accountable for the property, who formerly used the property, or who was in any way connected with its condemnation, declaration as excess, or sale, except:

(1) Surplus perishable products may be sold to employees at the best price obtainable in quantities not exceeding the needs of their immediate household;

(2) Special clothing and other articles or personal equipment purchased for the exclusive use of and fitted to an individual employee may, when not otherwise usable by the Department and in all respects surplus to the needs of the Government, be sold to such employees at the best price obtainable in the event of his or her separation from the Service or permanent assignment to duties not requiring such clothing or equipment.

§ 0.735–17 Use of vehicles.

(a) An employee who willfully uses or authorizes the use of a Government-owned or leased passenger motor vehicle or aircraft for other than official purposes shall be suspended for 1 month or removed from office in accordance with 31 U.S.C. 638a(c)(2).

(b) An employee who willfully uses or authorizes the use of any Government-owned or leased conveyance whether passenger carrying or not, for other than official purposes, is subject to disciplinary action up to and including removal.

(c) An employee shall not store Government-owned or leased motor vehicles in or near his or her private residence or use such vehicles for transportation between his or her residence and place of employment unless such storage or use shall have been specifically authorized by the Secretary or another official to whom such authority has been delegated.

§ 0.735–18 Indebtedness.

(a) Employees who fail to pay their just financial obligations in a timely and proper manner will be subject to such disciplinary action as the agency head or his or her designee considers appropriate. For the purpose of this section, "just financial obligations" are those acknowledged by the employee, reduced to judgment by a court, or confirmed by a final administrative determination of a unit of the Federal, State, or local government. A "proper and timely manner" means in a manner which the agency head or his or her designee determines does not, under the circumstances, reflect adversely on the Department as his or her employer.

(b) In cases where a legal judgment exists against the employee, the employee concerned will be required to satisfy the judgment within a reasonable period of time unless he or she can arrange to have it modified or set aside.

(c) When an employee is the subject of a complaint for failure to pay taxes or other debts that are the subject of a final administrative determination by a unit of the Federal, State, or local government, he or she shall be advised of the complaint and told to make payment arrangements satisfactory with that unit of government.

(d) When an employee is the subject of a letter of complaint from a creditor who does not hold a legal judgment, the agency head or his or her designee shall determine whether the employee acknowledges the debt and call the provisions of this section to the employee's attention. Subsequent action, if any, will be taken in accord with the facts of the case and the provisions of this section.

§ 0.735.19 Political activity.

A Federal employee other than an officer exempted by 5 U.S.C. 7324(d) may not take an active part in political management or in a political campaign or run for elective political office except when authorized by Department or Civil Service Commission regulations. He or she may not solicit or receive any assessment, subscription, or contribution for any political purpose from an officer or employee of the Government. Whatever the employee may not do directly, he or she may not do indirectly or through an agent, officer, or employee chosen by him or her or subject to his or her control.

§ 0.735–20 Use, protection, and release of information.

(a) An employee is prohibited from using or giving information acquired through his or her official position, prior to its release to the general public, to advance the interests of himself or herself, his or her family, associates, or friends, or any other person or enterprise.

(b) Classified defense information and restricted information shall be safeguarded and released in accordance with the provisions of applicable directives, statutes, or regulations. For further information consult the USDA Regulations for Classification, Declassification, and Safeguarding Classified Information.

(c) "For Official Use Only" material shall not be examined by, released to, nor discussed with any person except in the performance of official duties or as required by the Freedom of Information Act.

(d) Unauthorized, premature disclosure of information which might influence or affect the market value of any product of the soil grown within the United States, or of information which by law or rule of the Department is required to be withheld from publication until a fixed time is punishable by fine and imprisonment unless such release is determined to be required by the Freedom of Information Act.

(e) The subject matter of public hearings with respect to the proposed

issuance of an order, regulation, or other administrative determination, after the close of the hearing and prior to issuance by the Secretary of the order, regulation, or other administrative determination shall not be discussed with any interested person or with any representative of an interested person without written permission of the Secretary. However, this shall not preclude an employee who has been assigned to or has supervision over a proceeding from discussing with interested persons or their representatives matters of procedure in connection with such proceeding.

(f) Official mail shall be safeguarded from indiscriminate publication. It is prohibited to use or to quote in whole or in part any letters from the White House to this Department.

(g) Information concerning inventions and patent applications may be revealed only for official purposes. Employee inventors and employees who handle or obtain information concerning inventions of employee inventors or concerning any other inventions in which the Department may have an interest shall not reveal such information prior to the issuance of the patent, except for official purposes, unless such release is determined to be required by the Freedom of Information Act.

(h) Lists of names of farmers, business people, or employees that may be available in the Department shall not be released to anyone unless it is determined that such release is required by the Freedom of Information Act. Lists of manufacturers, dealers, breeders, etc., should not be furnished so as to imply that the Department endorses certain firms to the possible detriment of others, or that the lists necessarily include all dealers of a certain line.

§ 0.735–21 Activities with regard to farm organizations.

(a) Department employees shall refrain from participating actively in meetings and in other activities concerned with the establishment of general or specialized farm organizations, or with recruiting members for existing organizations such as the National Grange, the American Farm Bureau Federation, the National Farmers Organization, the Farmers' Union, the National Association of Soil Conservation Districts, the National Rural Electric Cooperative Association, the National Council of Farmer Cooperatives and Breed and Commodity Organizations. This is a necessary corollary of the equally long-established policy of the Department that it shall deal fairly with all organizations and deal with each upon the same basis. As a continuation of this policy, it should be understood by employees of the Department that it is not permissible for any of them to:

(1) Participate in establishing any general or specialized farm organization;

(2) Act as organizer for any such organization, or hold any other office therein;

(3) Act as financial or business agent for any such organization;

(4) Participate in any way in any membership campaign or other activity designed to recruit members for any such organization;

(5) Accept the use of free office space or contributions for salary or traveling expense from any such organization;

(6) Advocate that any particular general or specialized organization of farmers is better adapted for carrying out the work of this Department than any individual citizen, group of citizens, or organizations;

(7) Advocate that the responsibilities of any Agency of this Department or any other Federal agency should be carried out through any particular general or specialized organization of farmers;

(8) Advocate or recommend that any State or local agency should carry out its responsibilities through any particular general or specialized organization of farmers; or

(9) Approve contracts for the Department with any cooperative or other commercial organization whenever such cooperative or other commercial organization deducts or checks off from payments due farmers, membership dues of such farmers to any general or specialized organization of farmers, except as it is determined that current authorization for such deduction has been knowingly filed by such individual farmers with the cooperative or other commercial organization.

(b) The restrictions set forth in paragraph (a) of this section do not:

(1) Apply to members of an FmHA County Committee;

(2) Apply to specialized organizations of farmers such as cow testing associations and similar groups; or

(3) Prohibit employees from participating in the organization of groups that are needed in carrying out federally authorized programs, for example, an REA cooperative and similar groups determined by the appropriate Agency Head to be essential in effectuating federally authorized programs.

(c) If any violations of any of the provisions of this section should occur, full information with reference thereto should at once be submitted to the Office of the Inspector General by the Head of the Agency in which the person violating any of these provisions is employed.

§ 0.735–22 Prohibitions upon employees serving abroad.

An employee on foreign assignment may not:

(a) Violate Department of State regulations governing the post to which he or she is assigned;

(b) Receive a "profit" from the sale of his or her personal car or other property when such "profit" accrues from import privileges granted him or her by reason of his or her official status. "Profit" for the purposes of this paragraph is as defined in the Department of State regulations or directives governing the post of assignement;

(c) Engage in political activities in the country of assignment;

(d) Violate the laws of the country in which he or she is assigned;

(e) Have an interest in any business enterprise or engage in any profession in any country to which assigned; or

(f) Speculate in any foreign real estate, bonds, shares, stocks, and currencies.

§ 0.735–23 Miscellaneous provisions.

(a) Any money, property, or other thing of value received by or coming into custody of an employee in connection with the discharge of his or her duties must be accounted for, deposited or otherwise disposed of in accordance with established procedures.

(b) Employees are required under § 5.3 of Civil Service Rule V (5 CFR 5.3) to give the Civil Service Commission and its authorized representatives all information and testimony in regard to matters arising under laws, rules, and regulations administered by the Commission.

(c) Employees are obligated to give information to authorized representatives of the Department when called upon if the inquiry relates to official matters and the information is obtained in the course of employment or as a result of relationships incident to such employment. This shall include the furnishing of a signed statement. Failure to respond to requests for information or to appear as a witness in an official proceeding may result in disciplinary penalty. (Nothing herein shall be deemed to infringe upon an employee's right to invoke the protection of the Fifth Amendment to the Constitution with respect to self-incrimination.)

(d) Agency officials have the authority to transfer and reassign employees within their respective jurisdictions whenever necessary to meet operational needs. Employees have an obligation to the Department to accept transfers and changes in assignment. Failure to accept a transfer or reassignment may result in the separation of the employee.

(e) Employees shall not purchase products or receive services directly or indirectly from persons, firms, or establishments for which such employees conduct inspection, grading, or similar regulatory activities without express approval. Each Agency shall establish the approval level and shall advise each employee. Agencies shall utilize the following criteria in granting such approvals:

(1) Proximity of the employee to other retail outlets;

(2) The number of retail outlets in the commuting area;

(3) Whether the outlet is a sole source;

(4) Whether the firm is selling the item or service at the prevailing price to the general public as well as the employee; and

(5) Whether the outlet is open to the general public.

§ 0.735–24 Miscellaneous statutory provisions.

(a) Each employee has a positive duty to acquaint himself or herself with each statute that relates to his or her ethical and other conduct as an employee of his or her Agency, of the Department, and of the Government. The attention of each employee is directed to the following statutory provisions:

(1) House Concurrent Resolution 175, 85th Congress, second session, 72 Stat. B12, the "Code of Ethics for Government Service;"

(2) Chapter 11 of Title 18, United States Code, relating to bribery, graft, and conflicts-of-interest;

(3) The prohibition against wrongful disclosure of individually identifiable informations or wrongful maintenance of a system of records (5 U.S.C. 552a(i));

(4) The prohibition against a public official appointing or promoting a relative, or advocating such an appointment or promotion (5 U.S.C. 3110);

(5) The prohibitions against disloyalty and striking (Executive Order 10450, as amended, 5 U.S.C. 7311, 18 U.S.C. 1918); (6) The prohibition against the employment of a person convicted of a felony for participating in or promoting a riot or civil disorder (5 U.S.C. 7313);

(7) The prohibitions against proscribed political activities (5 U.S.C. 7324, and 18 U.S.C. 602, 603, 607, and 608);

(8) The provisions relating to the receipt and disposition of foreign gifts and decorations (5 U.S.C. 7342);

(9) The prohibition against gifts to superiors by employees (5 U.S.C. 7351);

(10) The provision relating to the habitual use of intoxicants to excess (5 U.S.C. 7352);

(11) The prohibition against a person licensed or authorized to perform any official function under the U.S. Grain Standards Act, or employed by the Department to carry out the provisions of the Grain Standards Act being financially or otherwise interested in an entity owning or operating a grain elevator or warehouse or engaging in the merchandising of grain, or be employed by or accept gratuities from any such entity (7 U.S.C. 87(a));

(12) The prohibition against the unauthorized release of information, in the Packers and Stockyards Act (7 U.S.C. 222);

(13) The prohibition against the release of information in an employee's possession concerning cotton standards, estimates, tests, and analyses unless authorized by the Secretary (7 U.S.C. 472);

(14) The prohibitions against the release of information acquired from parties to any marketing agreement, and handlers subject to marketing agreement orders, except as authorized by the Secretary for the purposes of suit or administrative hearings (7 U.S.C. 608d(2));

(15) The prohibition against persons administering activities concerned with cotton option contracts and commodity benefits as provided by the Agricultural Adjustment Act, speculating in agricultural commodities or products to which such contracts or benefits apply, or in contracts relating thereto, or in the stock or memberships interest of any association or corporation handling such commodities or products (7 U.S.C. 610(g));

(16) Limitations on the use or availability of information furnished in connection with marketing agreements and orders (7 U.S.C. 610(i));

(17) The availability of information furnished in connection with marketing agreements and orders, and applicable to marketing agreements for anti-hog-cholera serum and hog-cholera virus is restricted (7 U.S.C. 855);

(18) Information furnished in connection with collection of peanut statistics shall be used only for statistical purposes for which supplied. No publication shall be made where the data furnished by any establishment can be identified (7 U.S.C. 955);

(19) Information furnished in connection with the establishment and adjustment of farm marketing quotas shall be disclosed only as authorized by the Secretary for the purpose of suit or administrative hearing (7 U.S.C. 1373(c));

(20) The prohibition against an officer or employee being the beneficiary of or receiving any fee, commission or gift for or in connection with any transaction or business under the Consolidated Farm and Rural Development Act, other than such salary, fee or compensation as he or she may receive as an officer or employee. In addition, members of an FmHA County Committee are prohibited from making any certification with respect to a loan to purchase any land in which they or any person related to them have any financial interest (7 U.S.C. 1986);

(21) The prohibition against unauthorized release of information relating to the production and marketing of cotton (7 U.S.C. 2105(c));

(22) The prohibition against unauthorized release of information relating to plant variety protection (7 U.S.C. 2426);

(23) The prohibition against unauthorized release of information relating to the production and marketing of eggs (7 U.S.C. 2706(c));

(24) The prohibition against the unauthorized prediction as to cotton prices in a Governmental publication (12 U.S.C. 1141j(d));

(25) The prohibition against the making of false statements in connection with activities of the Commodity Credit Corporation or embezzlement or conversion of anything of value belonging or pledged to the Corporation, or conspiring to commit such acts (15 U.S.C. 714m);

(26) The prohibition against the acceptance of any fee, gift, or other consideration for compromise, adjustment, or cancellation of farm indebtedness (18 U.S.C. 217);

(27) The prohibition against an employee acting as an agent of a foreign principal registered under the Foreign Agents Registration Act (18 U.S.C. 219);

(28) The prohibition against unauthorized use of documents relating to claims from or by the Government (18 U.S.C. 285);

(29) The prohibition against an employee contracting with a Member of Congress (18 U.S.C. 432);

(30) The prohibition against paying a larger sum than appropriated for erection, repair, or furnishing of any public building or improvement thereof (18 U.S.C. 435);

(31) The prohibition against contracting for convict labor (18 U.S.C. 436);

(32) The prohibition against counterfeiting and forging transportation requests (18 U.S.C. 508);

(33) The prohibition against acceptance of excessive honorariums (18 U.S.C. 616 repealed, now 2 U.S.C. 441i);

(34) The prohibition against embezzlement of Government money or property (18 U.S.C. 641);

(35) The prohibition against failing to account for public money (18 U.S.C. 643);

(36) The prohibition against misuse of public funds by custodian (18 U.S.C. 648);

(37) The prohibition against custodian failing to deposit money in his or her possession (18 U.S.C. 649);

(38) The prohibition against disbursing officers falsely certifying full payment (18 U.S.C. 651);

(39) The prohibition against disbursing officers paying less than lawful amount (18 U.S.C. 652);

(40) The prohibition against disbursing officers misusing public funds (18 U.S.C. 653);

(41) The prohibition against embezzlement of the money or property of another person in the possession of an employee by reason of his or her employment (18 U.S.C. 654);

(42) The prohibition against the embezzlement of money or property of the Federal Crop Insurance Corporation and the Farmers Home Administration, and of pledged or entrusted property (18 U.S.C. 657);

(43) The prohibition against the conversion of property mortgaged or pledged to the Farmers Home Administration and the Federal Crop Insurance Corporation, with intent to defraud (18 U.S.C. 658);

(44) The prohibitions against the disclosure of classified information (18 U.S.C. 798, 50 U.S.C. 783);

(45) The prohibition against extortion by Government employees (18 U.S.C. 872);

(46) The prohibition against fraud or false statements in a Government matter (18 U.S.C. 1001);

(47) The prohibition against the making of false entries, or participation in any benefit through any transaction in connection with Departmental activities concerned with agricultural loans (18 U.S.C. 1006);

(48) The prohibition against the making of false statements or reports, or wilfully overvaluing land, property or security to influence action in connection with agricultural loans (18 U.S.C. 1014);

(49) The prohibition against depredation of Government property (18 U.S.C. 1361);

(50) The prohibition against the misuse of the franking privilege (18 U.S.C. 1719);

(51) The prohibition against the wilful disclosure of official information which might influence or affect the market value of crops prior to authorized publication. An employee acquiring by reason of his or her employment, information as to the market value of agricultural crops, which information is required to be withheld, is prohibited from speculating in such product (18 U.S.C. 1902);

(52) The prohibition against the disclosure of confidential information (18 U.S.C. 1905);

(53) The prohibition against speculation in agricultural commodities to which the Federal Crop Insurance Act applies or to contracts relating thereto, or stock or membership interests of corporations or associations handling such commodities by any person administering such law (18 U.S.C. 1903);

(54) The prohibition against lobbying with appropriated funds (18 U.S.C. 1913);

(55) The prohibition against the use of deceit in an examination or personnel action in connection with Government employment (18 U.S.C. 1917);

(56) The prohibition against mutilating or destroying a public record (18 U.S.C. 2071);

(57) The prohibition against the compilation of issuance of false crop reports (18 U.S.C. 2072);

(58) The prohibition against employee making false or fictitious entry or record in a matter related to his or her duties (18 U.S.C. 2073);

(59) The prohibition against any person using to his or her own advantage or improperly revealing information concerning trade secrets acquired under the Poultry Products Inspection Act (21 U.S.C. 458);

(60) The prohibition against the acceptance by an employee of money or other things of value given with intent to influence a decision in connection with the performance of duties under the Federal Meat Inspection Act, or when received from a person or firm engaged in commerce given for any purpose whatever (21 U.S.C. 622);

(61) The tax imposed on certain employees (e.g., Presidential appointees, employees excepted under Schedule C, employees in GS-16 or above or a comparable pay level) who knowingly engage in self-dealing with a private foundation (26 U.S.C. 4941, 4946). "Self-dealing" is defined in the statute to include certain transactions involving an employee's receipt of pay, a loan, or reimbursement for travel or other expenses from, or his or her sale to or purchase of property from, a private foundation;

(62) The prohibition against any employee subject to the Surface Mining Control and Reclamation Act from owning any direct or indirect financial, real property, employment and/or creditor interests in an underground or surface coal-mining operation (30 U.S.C. 1201);

(63) The prohibition against false claims (31 U.S.C. 231);

(64) The prohibition against the misuse of a Government vehicle (31 U.S.C. 638a);

(65) The prohibition against expenditure or obligation in excess of amount apportioned or appropriation available (31 U.S.C. 665); and

(66) The prohibition against acceptance of voluntary services (31 U.S.C. 665).

(b) This section does not purport to enumerate or paraphrase all statutory restrictions imposed on employees. The omission of a restriction in no way relieves an employee of the legal effect of such restriction.

Subpart C—Statements of Employment and Financial Interests

§ 0.735-31 Employees required to submit statements.

Except as provided in § 0.735-32 the following employees shall submit a statement of employment and financial interests on USDA Form AD-392 in accordance with this part:

(a) Employees paid at a level of the Executive Schedule in Subchapter II of 5 U.S.C., Chapter 53;

(b) Employees appointed as Administrative Law Judges under 5 U.S.C. 3105;

(c) Employees classified at GS-13 or above under 5 U.S.C. 5332, or at a comparable pay level under other authority who are in positions the basic duties and responsibilities of which require the incumbent to exercise judgment in making a Government decision or in taking Government action on contracting or procurement, administering or monitoring grants or subsidies, regulating or auditing private or other non-Federal enterprise, or other activities where the decision or action has an economic impact on the interests of any non-Federal enterprise;

(d) Employees classified at GS-13 or above under 5 U.S.C. 5332, or a comparable pay level under other authority, who are in positions which the Agency has determined have duties and responsibilities which require that the incumbents report their employment and financial interests in order to avoid involvement in a possible conflict-of-interests situation and carry out the purpose of law, Executive Order, Part 735 of the Civil Service Commission's regulations, this part, and applicable Agency regulations;

(e) Employees classified below GS-13 under 5 U.S.C. 5332, or at a comparable pay level under other authority, where the Agency has determined that they are in positions which otherwise meet the criteria in paragraphs (c) and (d) of this section and that a statement from them is essential to protect the integrity of the Government and avoid employee involvement in a possible conflict-of-interests situation: *Provided*, Such determination has been approved in writing by the Civil Service Commission; and

(f) All employees regardless of grade, pay level or type of appointment who perform any function or duty under the Surface Mining Con-

trol and Reclamation Act of 1977 (Pub. L. 95-87).

(g) An employee who refuses to file a statement for reasons other than that the duties and responsibilities of the position do not come within the criteria for reporting as set forth in this part, or who refuses to file after a final determination that the duties and responsibilities of the position do come within the criteria, will be subject to appropriate disciplinary action.

§ 0.735-32 Exceptions.

(a) A statement of employment and financial interests is not required from a Presidential appointee covered by section 401(a) of the Executive Order. Such appointees are subject to separate reporting requirements under section 401 of the Executive Order.

(b) Employees in positions that meet the criteria in § 0.735-31(c) may be excluded from the reporting requirement when the Department Counselor determines that:

(1) The duties of a position are such that the likelihood of the incumbent's involvement in a conflict-of-interest situation is remote, or

(2) The duties of a position are at such a level of responsibility that the submission of a statement of employment and financial interests is not necessary because of the degree of supervision and review over the incumbent or the inconsequential effect on the integrity of the Government.

(c) Exceptions will be considered by the Department Counselor at the request of the Agency Head.

(d) An employee shall be afforded the opportunity for a review, through the Departmental grievance procedure as described in Chapter 771 of the Department Personnel Manual, of the designation of his or her position as one requiring the submission of a statement of employment and financial interests.

§ 0.735-33 Identification of employees required to submit statements.

Agency Heads are responsible for identifying those employees who are required to file statements of outside employment and financial interests under § 0.735-31. For control and reporting purposes, those employees required to submit statements shall be specifically identified in the personnel records system.

§ 0.735-34 Time and place for submission of employees' statements.

(a) When a decision is reached to make an appointment to a position requiring submission of a statement of employment and financial interests, the prospective employee should be informed of the requirement, furnished a copy of these regulations and the statement form, and advised of the availability of counseling with respect thereto. Submission of the initial statement shall be made prior to appointment to a position requiring the submission of a statement. Review of the statement and resolution of any conflict questions should be made promptly and, if possible, prior to appointment.

(b) Employees and prospective employees in the following positions will submit statements directly to the Director of Personnel:

(1) Positions in the immediate staff and offices of the Office of the Secretary;

(2) Agency Heads, Associates, Deputies and Assistants; and

(3) All Noncareer Executive or Schedule C positions.

(c) Those in other positions will submit statements to the Agency Head or to an employee designated by him or her.

(d) Agencies are responsible for assuring that persons subject to the reporting requirements are notified of those requirements and are provided the necessary forms and instructions.

§ 0.735-35 Supplementary statements.

Changes in, or additions to, the information contained in an employee's statement of employment and financial interests shall be reported in an annual supplementary statement as of March 31 and submitted no later than April 30 of each year. If no changes or additions occur, a report so stating is required. Notwithstanding the filing of the annual statement required by this section, each employee shall at all times avoid acquiring a financial interest or taking an action that could result in violation of the conflicts-of-interests provisions of section 208 of Title 18, United States Code, or § 0.735-14.

§ 0.735-36 Types of interests to be reported.

The employment and financial interests statements shall include the following:

(a) A list of the names of all corporations, companies, firms, or other business enterprises, partnerships, nonprofit organizations and educational or other institutions with which the employee is connected as an employee, officer, owner, director, trustee, member, partner, advisor, or consultant, or in which he or she has any continuing financial interest through a pension or retirement plan, shared income or otherwise as a result of any current or prior employment or business or professional associations, or in which he or she has any financial or beneficial interest through the ownership of stock, stock options, bonds, securities or other arrangements including trusts. The dollar value of each financial interest must be listed on the financial statement. Shares in credit unions, building and loan associations, social or religious organizations, or deposits in savings and loan associations and banks, and interests exempted under § 0.735-14(c) need not be reported.

(b) A list of the names of his or her creditors other than those to whom he or she may be indebted by reason of mortgage on property which he or she occupies as a personal residence or to whom he or she may be indebted for current and ordinary household and living expenses such as household furnishings, automobile, education, vacation, and similar expenses. Indebtedness on owner-occupied farms must be reported.

(c) A list of interests in real property or rights in land and minerals such as farmland, timberland and/or undeveloped land with their value, total acreage, total number of farm animals, types of crops, types of farm animals, number of acres of each crop and/or number of each farm animal, average annual income derived from sales of crops and/or farm animals, other than property which the employee occupies as a personal residence. Owner-occupied farms must be listed. Property acquired for the personal use of the employee and members of his or her family, such as beach lots and cemetary lots need not be listed.

(d) The interests and obligations as listed above of a spouse, minor child, or relative who are full-time residents of the employee's household.

§ 0.735-37 Information prohibited.

The regulations in this part do not require an employee to submit any information relating to the employee's connection with, or interest in, a union, professional society or a charitable, religious, social, fraternal, recreational, public service, civic, or political organization or similar organization not conducted as a business enterprise. For the purpose of this section, educational and other institutions doing research and development or related work involving grants of money from or contracts with the Government are deemed "business enterprises" and are required to be included in employee's statement of employment and financial interests.

§ 0.735-38 Interests of employee's relatives.

(a) The financial interest of a spouse, minor child, or other member of an employee's immediate household shall be reported to the same extent as the financial interest of the reporting employee. An "other member" of the immediate household means a relative who is a full-time resident of the employee's household (§ 0.735-2(i)).

(b) The employment of such persons need not be reported unless such person is engaged in an activity, which if held by the employee, would place him or her in a conflict or apparent conflict-of-interest situation.

§ 0.735-39 Information not known by employee.

If any information required to be included on a statement of employment and financial interests, or supplement thereto, including holdings placed in trusts, is not known to the employee but is known to another person, the employee shall ask such person to furnish the information in his or her behalf.

§ 0.735-40 Effect of employee's statement.

The statements of employment and financial interests and supplementary statements required under this part are in addition to, and not in substitution for, or in derogation of, any similar requirement imposed by law, the Executive order, or regulation. The submission of a statement or supplementary statement by an employee does not permit him or her or any other person to participate in a matter in which his or her or the other person's participation is prohibited by law, the Executive order, or the regulations in this part.

§ 0.735-41 Specific provisions for special Government employees.

(a) Except as provided in paragraph (b) of this section, each special Government employee shall submit a statement of employment and financial interests on USDA Form AD-392A which reports:

(1) All other employment; and

(2) The financial interests of the special Government employee which relate either directly or indirectly to the duties and responsibilities of the special Government employee with the Department.

(b) An Agency Head may waive the requirements in paragraph (a) of this section for the submission of a statement of employment and financial interests in the case of a special Government employee who is not a consultant or expert when the Agency Head finds that the duties of the position held by that special Government employee are of a nature and at such a level or responsibility that the submission of the statement by the incumbent is not necessary to protect the integrity of the Government. For the purpose of this paragraph, "consultant" and "expert" have the meanings given those terms by Chapter 304 of the Federal Personnel Manual but do not include:

(1) A physician, dentist, or allied medical specialist whose services are procured to provide care and service to patients; or

(2) A veterinarian whose services are procured to provide care and service to animals.

(c) A statement of employment and financial interests required to be submitted under this section shall be submitted to the Head of the Agency in which the special Government employee is to serve not later than the time of employment. Each special Government employee shall keep his or her statement of employment and financial interests current throughout his or her employment with the Department by the submission of supplementary statements.

§ 0.735-42 Review of statements and determination of conflicting interests.

(a) The Assistant Secretary for Administration is responsible for assuring that all personnel required to file are properly identified, all statements are submitted timely and that Agency Heads identify review officials who possess the knowledge and experience to be able to properly evaluate the listed interest. This pertains to filings under both Executive Order 11222 and the Surface Mining Control and Reclamation Act of 1977. All Agencies shall report to the Assistant Secretary for Administration by May 30 each year the number of statements submitted, the number that have been closed favorably and the number that have not been closed. In the latter instance, the Assistant Secretary for Administration shall be advised the reasons for the cases remaining open and shall be advised on a monthly basis of the status of all open cases.

(b)(1) The Director of Personnel is responsible for the review of, and determination on, those statements submitted directly to him or her pursuant to § 0.735-34(b).

(2) Agency Heads will be responsible for annually identifying employees required to file employment and financial statements, for collecting and initially reviewing the statements, for identifying and designating those employment and financial interests that are not in conflict, and for signing and dating the statements.

(c) Agency Heads are responsible for the review of, and determination on, those statements submitted to an Agency official. Original and supplementary statements shall be reviewed and determiniations made within 2 months of receipt of such statements. Disciplinary action will be taken against those who falsely certify that the employment and financial interests statements have been received and reviewed. This responsibility may be delegated, subject to the following restrictions:

(1) Responsibility for review and determination may be delegated only to a responsible Agency official in the national office, who the Agency Head determines has sufficient experience, judgment, and understanding of the conflict-of-interest problem to properly carry out such responsibilities. The initial processing and receiving of the statements can be delegated to the field facilities where the person is employed. If the statement, when received, shows any holding of any sort, it shall be referred for review to the official identified by the Agency Head as having the responsibility, with a statement indicating whether the holding does, does not, or appears to have some relationship to the duties the employee performs.

(2) Responsibility for final determinations in cases involving substantial conflict questions may be delegated only to Associate, Deputy, and Assistant Agency Heads. The Agency Head shall set criteria identifying the types of cases which must be referred to such officials for final determination.

(d) Delegations of review and determination responsibility must be in writing from the Director of Personnel or the Agency Head, as appropriate.

(e) The Director of Personnel shall issue general guidelines covering the review of statements, recognizing possible conflicts or the appearance thereof, obtaining additional information, resolving conflict situations, documentation, and remedial action. Agencies shall supplement these with more specific guidelines applicable to the particular Agency. A copy of both the general and the specific guidelines shall be furnished to each employee to whom review and determination responsibility has been delegated.

(f) Whenever a question of a conflict or appearance of conflict arises, a written determination must be made. The basis of the determination must also be documented in writing. The employee must be advised in writing of the determination, and, if the determination involves a change in duties or disqualification for a particular assignment, a copy of the determination should be furnished to the employee's immediate supervisor. Where affirmative action by the employee is required, a report of his or her compliance shall be obtained and made a part of the record.

(g) If a determination cannot be made at the Agency level, the case shall be referred to the Director of Personnel. If the Director of Personnel cannot make a determination, he or she shall refer the case to the Department Counselor for his or her determination or referral to the Secretary for determination. The record shall include copies of all pertinent documents and a written statement

from each referring official setting forth his or her recommendation as to a final determination and the reasons therefor.

(h) Before a final determination requiring any remedial action is made, the employee concerned shall be given an opportunity to explain the conflict or appearance thereof and to offer any suggestions he or she may wish as to how the matter might be resolved. If an employee feels that the final determination will cause him or her undue hardship, he or she may request a review and modification by forwarding to the Director of Personnel a written statement setting forth all the facts and circumstances in support of his or her request and any alternative solution which he or she thinks appropriate.

(i) If the final determination requires positive action on the part of the employee, he or she shall take such action as soon as possible and advise the determining official when he or she has done so. Failure to take a required action within a reasonable time may result in disciplinary action.

§ 0.735–43 Protection of employees' statements.

(a) The statements of employment and financial interests, and supplements thereto, required by or pursuant to the regulations in this part shall be held in confidence and afforded adequate physical security. No information as to the contents thereof shall be disclosed except to the head of the employing agency and such other persons as may be designated custodians or reviewers of such reports unless specific authorization has been obtained from the Department Counselor. An official, custodian, reviewer, or other employee having possession of a statement of employment and financial interests shall not allow access to, or allow information to be disclosed from, the statement except to carry out the purpose of this subpart C.

(b) Information from a statement of employment and financial interests shall not be disclosed outside of the Department except as the Civil Service Commission or the Secretary of Agriculture may determine for good cause shown.

(c) Reports shall be separately maintained by the officials designate as custodians for such reports and shall not be made a part of the official personnel folders.

(d) Regardless of the means or manner of transmission, when these reports leave the physical custody of employees or a designated reviewer, they shall be enclosed in a double sealed envelope. The inner envelope shall be marked: "For Official Use Only," "Contains AD-392 (or AD-392A)," as appropriate, and "To Be Opened by Addressee Only."

These regulations were approved by the Civil Service Commission on March 29, 1978.

Done this 21st day of September 1978, at Washington, D.C.

BOB BERGLAND,
Secretary.

[FR Doc. 78-26972 Filed 9-25-78; 8:45 am]

[3410-05]

CHAPTER VII—AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE (AGRICULTURAL ADJUSTMENT), DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

[Amdt. 8]

PART 724—FIRE-CURED, DARK AIR-CURED, VIRGINIA SUN-CURED, CIGAR BINDER (TYPES 51 AND 52), CIGAR FILLER AND BINDER (TYPES 42, 43, 44, 53, 54, AND 55) TOBACCO

Subpart—Tobacco Allotment and Marketing Quota Regulations, 1972–73 and Subsequent Marketing Years

1977–78 AVERAGE MARKET PRICE AND 1978–79 PENALTY RATE

AGENCY: Agricultural Stabilization and Conservation Service, Department of Agriculture.

ACTION: Final rule.

SUMMARY: This rule provides the average market price received by producers for 1977–78 marketings and the penalty rate that applies to tobacco which may be subject to a marketing quota penalty during the 1978–79 marketing year. The penalty rate is 75 percent of the previous marketing years' average market price, as required by section 314 of the Agricultural Adjustment Act of 1938, as amended.

EFFECTIVE DATE: September 26, 1978.

FOR FURTHER INFORMATION CONTACT:

Maurice Reddick, Production Adjustment Division, Agricultural Stabilization and Conservation Service, USDA, P.O. Box 2415, Washington, D.C. 20013, 202-447-7935.

SUPPLEMENTARY INFORMATION: Since the 1977-78 average market price which producers received for their crops of fire-cured, dark air-cured, Virginia sun-cured, cigar-binder (types 51 and 52), and cigar-filler and binder (types 42, 43, 44, 53, 54, and 55) tobacco, and the rate of the marketing quota penalty that applies to the 1978-79 marketings of tobacco reflect mathematical computations rather than substantive changes, it is hereby determined that compliance with the notice of proposed rulemaking, public procedure, and 30-day effective date provisions of 5 U.S.C. 553 and the requirements of Executive Order 12044 are impracticable, unnecessary and contrary to the public interest.

FINAL RULE

Accordingly, 7 CFR Part 724 is amended by adding paragraph (j) to § 724.88 to read as follows:

§ 724.88 Rate of penalty.

* * * * *

(j)(1) *The 1977-78 average market price.* The average market price for the kinds of tobacco listed below as determined by the Crop Reporting Board, Statistical Reporting Service, U.S. Department of Agriculture, for the 1977-78 marketing year was:

AVERAGE MARKET PRICE

Kind of tobacco:	*Cents per Pound*
Fire-cured (type 21)	96.3
Fire-cured (types 22, 23, 24)	125.6
Dark air-cured	116.6
Virginia sun-cured	100.0
Cigar-filler and binder (types 42, 43, 44, 53, 54, and 55)	82.8
Cigar-binder (types 51 and 52)	121.3

(2) *1978-79 rate of penalty per pound.* The penalty rate per pound for the kinds of tobacco listed below upon marketings of excess tobacco subject to marketing quotas during the 1978-79 marketing year shall be:

RATE OF PENALTY

Kinds of tobacco:	*Cents per pound*
Fire-cured (type 21)	72
Fire-cured (types 22, 23, 24)	94
Dark air-cured	87
Virginia sun-cured	75
Cigar-filler and binder (types 42, 43, 44, 53, 54, and 55)	62
Cigar-binder (types 51 and 52)	(1)

[1] Quotas terminated for 1978 crop.

(Secs. 301, 313, 314, 316, 318, 363, 372-375, 377, 378, 52 Stat. 38, as amended, 48, as amended, 75 Stat. 469, as amended, 81 Stat. 120, as amended, 52 Stat. 63, as amended, 65, as amended, 66, as amended, 70 Stat. 206 as amended, 72 Stat. 995, as amended (7 U.S.C. 1301, 1313, 1314, 1314b, 1314d, 1363, 1372-1375, 1377, 1378).)

Signed at Washington, D.C., on September 18, 1978.

RAY FITZGERALD,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 78-26974 Filed 9-25-78; 8:45 am]

[3410-05]

[Amdt. 10]

PART 725—FLUE-CURED TOBACCO

Subpart—Flue-Cured Tobacco Acreage Allotment and Marketing Quota Regulations, 1973-74 and Subsequent Marketing Years

TRANSFER OF FLUE-CURED TOBACCO QUOTAS BY LEASE

AGENCY: Agricultural Stabilization and Conservation Service, Department of Agriculture.

ACTION: Final rule.

SUMMARY: This rule clarifies that lessor farms with effective marketing quotas not in excess of 2,000 pounds are not required to make reasonable and customary efforts to produce the effective farm marketing quota to be eligible to lease and transfer marketing quotas after June 14.

EFFECTIVE DATE: September 26, 1978.

FOR FURTHER INFORMATION CONTACT:

Maurice Reddick, Production Adjustment Division, Agricultural Stabilization and Conservation Service, USDA, P.O. Box 2415, Washington, D.C. 20013, 202-447-7935.

SUPPLEMENTARY INFORMATION: Amendment 7, issued on January 3, 1978, did not make it clear that a producer need not exert reasonable and customary efforts to produce the effective farm marketing quota as a condition of eligibility to lease and transfer marketing quotas after June 14 from lessor farms with effective marketing quotas not in excess of 2,000 pounds. The present amendment clarifies this rule.

Since the change provided in this amendment is primarily a clarification of a previous rule and producers are in the process of making plans for leasing and transferring quota for marketing the 1978 crop, it is hereby determined that compliance with the notice of proposed rulemaking, public procedure, and 30-day effective date provisions of 5 U.S.C. 553 and the requirements of Executive Order 12044 are impracticable and contrary to the public interest.

FINAL RULE

Accordingly, 7 CFR Part 725 is amended by revising paragraph (c)(3)(iv) of 725.72 to read as follows:

§ 725.72 Lease and transfer of tobacco marketing quotas.

* * * * *

(c) * * *

(3) * * *

(iv) Not be made, except for lessor farms with effective farm marketing quotas of 2,000 pounds or less, if the county committee determines that the producer on the lessor farm did not make reasonable and customary efforts to produce the effective farm marketing quota.

(Secs. 301, 313, 314, 316, 317, 363, 372-375, 377, 378, 52 Stat. 38, as amended, 47, as amended, 48, as amended, 75 Stat. 469, as amended, 79 Stat. 66, 52 Stat. 63, as amended, 65-66, as amended, 72 Stat. 995; sec. 401, 63 Stat. 1504, as amended, secs. 106, 122, 125, 70 Stat. 191, 195, 198, as amended, sec. 16(e), 76 Stat. 606 (7 U.S.C. 1301, 1313, 1314, 1314b, 1314c, 1363, 1372-1375, 1377, 1378, 1421, 1813, 1824, 1836) (16 U.S.C. 590p(e)).)

Signed at Washington, D.C., on September 18, 1978.

RAY FITZGERALD,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 78-26973 Filed 9-25-78; 8:45 am]

[3410-37]

Title 9—Animals and Animal Products

CHAPTER III—FOOD SAFETY AND QUALITY SERVICE, MEAT AND POULTRY INSPECTION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER A—MANDATORY MEAT INSPECTION

PART 325—TRANSPORTATION

Livestock Lungs and Lung Lobes

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the Federal meat inspection regulations by relieving certain restrictions on the importation and movement in commerce of livestock lungs and lung lobes. The Department has determined, after a thorough review of public comments and other relevant information, that such restrictions are no longer necessary.

EFFECTIVE DATE: October 23, 1978.

FOR FURTHER INFORMATION CONTACT:

Dr. A. V. Giesemann, Acting Chief Staff Officer, Inspection Standards and Regulations Staff, Technical Services, Meat and Poultry Inspection Program, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-3219.

SUPPLEMENTARY INFORMATION: On March 30, 1976, a notice of proposed rulemaking was published in the FEDERAL REGISTER (41 FR 13362), to amend § 325.8 of the Federal meat inspection regulations (9 CFR 325.8) in order to relieve certain restrictions on the importation and movement in commerce of livestock lungs and lung lobes.

Specifically, the proposal provided for the revocation of the requirements that official establishments obtain permits and prepare certificates in order to ship lungs or lung lobes from their establishments. The other requirements for shipping such products, namely the labeling, container closure, and ultimate destination requirements, were to remain in effect. One change in the labeling language, however, was specified. Also, the requirements concerning secure closure of containers were modified so as to allow the use of certain additional suitable packaging and closing materials.

The proposal further provided for the importation and movement, in commerce, under the same requirements imposed on shipments from official establishments, of lungs and lung lobes produced in certified and approved foreign establishments or in State inspected establishments. These transactions, however, were also required to meet certain other criteria.

Six individuals commented on the proposed rule. Additional views were also presented by the staff. Careful consideration has been given to all comments and views as well as to records, reports, and other relevant data and certain modifications to the proposal have been made as a result.

One respondent expressed dissatisfaction with the fact that lungs were permitted in pet food and not in human food. In June 1971, the Department determined, on the basis of microscopic examination of lung tissue, that lungs were adulterated within the meaning of the Federal Meat Inspection Act and, therefore, unfit for human consumption. This commenter furnished no information to alter that determination. Therefore, no change of the proposed regulation has been made in that regard.

All other respondents supported the proposed amendment, although suggestions for changes were made. Specifically, all five of the remaining comments suggested that permission to handle undenatured lungs and lung lobes should be extended to byproduct

collection firms who supply materials to the pet food industry. One comment stated that such firms supply about one-half of the materials used by the pet food industry, and that they perform a service for many small slaughtering plants by removing and storing lungs, which increases their value. Though the proposed regulation has not been amended to allow byproduct collectors to participate in the trade of undenatured lungs, the Department agrees that the request to allow this may be justified. Therefore, a subsequent amendment will be proposed to extend the privilege, under proper safeguards, to such collectors.

The comments also stated that pet food users or manufacturers needed to be able to ship lungs and lung lobes from one storage warehouse to another in order to facilitate the handling and storage of these products. This suggestion was considered reasonable and has been adopted in the final rule. The proposed regulation has been changed, in response to these comments, so as to allow the transportation of lungs and lung lobes between warehouses for the account of a pet food user or manufacturer, as well as for the direct shipments permitted in the original proposal.

Although the proposal modified the requirements concerning secure closure of containers of lungs and lung lobes so as to allow the use of certain additional packaging and closing materials, the comments suggested that the use of many, if not all, of the allowed materials might pose a safety hazard. Furthermore, input from the staff indicated that experience had shown that the use of these materials was not necessary to effectively keep lungs and lung lobes from being diverted into human food channels. Since prevention of diversion of these products into human food channels was the principal reason for requiring the use of the materials, and since the use of the materials posed a possible safety hazard, it was decided that the necessary segregation and ease of identification of the products could be achieved in another way, namely by allowing the use of a 1-inch (2.5 cm) bright orange band imprinted around the boxes of lungs and lung lobes. The proposed regulation has been changed accordingly.

As a result of additional views presented by the staff, paragraph (a) of the proposed regulation has been modified so that the transactions involving lungs and lung lobes regulated pursuant to this section will include sales, offers for sale, or transportation, and receipts for transportation, as well as transportations.

This change was made in order to fully comply with the requirements of section 201 of the Federal Meat Inspection Act (21 U.S.C. 641). Furthermore, the regulation also has been changed to require the name and address of the packer or distributor to be on the immediate container. This change was made in order to conform with the general requirement included in part 317 of the regulations (9 CFR, part 317).

Certain other minor changes have been made to the regulation as proposed. The metric equivalents for size requirements of labeling have been added in anticipation of the pending conversion to that system. All other minor changes were made to correct inadvertent errors.

Therefore, § 325.8 of the Federal meat inspection regulations (9 CFR 325.8) is amended to read as follows:

§ 325.8 Transportation and other transactions concerning certain undenatured lungs or lung lobes from official establishments or in commerce; provisions and restrictions.

(a) Lungs or lung lobes, other than those condemned under § 310.16(b) of this subchapter, that are prepared at any official establishment, may be sold, transported, offered for sale or transportation, or received for transportation from the establishment, in commerce or otherwise, without denaturing as prescribed in § 314.1 or § 314.3 of this subchapter: *Provided:*

(1) The lungs or lung lobes are sold, transported, or offered for sale or transportation to, or received for transportation by: An animal food manufacturer for use in manufacturing animal food; a zoo, mink farm, or other establishment for use as animal food without further processing; a warehouse in the United States for storage and subsequent movement to such a manufacturer or establishment in the United States, or from one warehouse to another for the account of and subsequent movement to such a manufacturer or establishment, or for export, for nonhuman food purposes.

(2) The boxes or other containers used for shipping the undenatured lungs or lung lobes are closed with nylon filament tape, metallic on nonmetallic straps, round wire, or other similar materials that securely effect closure of such containers, and the containers are permanently identified in at least 2-inch (5 cm) high lettering with the statement "(Species) Lungs—Not Intended for Human Food." In lieu of securely closing the immediate container with any of the above materials, a 1-inch (2.5 cm) wide bright orange band, imprinted around the length and width of the container may be used.

(3) The name and place of business of the packer or distributor shall be shown on the immediate container of the product. In addition, the country of origin shall be shown on the immediate container of imported lungs or lung lobes.

(b) Lungs or lung lobes, other than those condemned under a State law or regulation at least equal to § 310.16(b) of this subchapter, that are prepared at any State inspected establishment may be sold, transported, offered for sale, or transportation or received for transportation from that establishment, in commerce, without denaturing as prescribed under section 201 of the Act, provided the State law or regulations permit such disposition and provided there is compliance with the provisions of paragraph (a) of this section.

(c) Foreign establishments shall be eligible to export lungs or lung lobes, other than those condemned for reasons set forth in § 310.16(b) of this subchapter, to the United States from such foreign country under this section, only if such establishments are certified and approved for export of products to the United States under part 327 of this subchapter, and such product complies with the applicable regulations for preventing the introduction into the United States of diseases (9 CFR 94), in addition to the requirements of paragraph (a) of this section.

(d) All such lungs or lung lobes, if intended for animal food, are subject to the Federal Food, Drug, and Cosmetic Act.

(Sec. 21, 34 Stat. 1260, as amended (21 U.S.C. 621); 42 FR 35625, 35632.)

It does not appear that further public participation in rulemaking proceedings would make additional information available to the Department. Therefore, under the administrative procedure provisions in 5 U.S.C. 553, it is found that further rulemaking procedures are unnecessary.

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

Done at Washington, D.C., on September 19, 1978.

SYDNEY J. BUTLER,
Acting Administrator,
Food Safety and Quality Service.

[FR Doc. 78-26866 Filed 9-25-78; 8:45 am]

[6210-01]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

[Reg. T; Docket No. R-0080]

PART 220—CREDIT BY BROKERS AND DEALERS

Nonconvertible Debt Securities

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: This amendment will permit brokers and dealers, for the first time, to extend and maintain credit on nonconvertible debt securities not listed on national securities exchanges which satisfy certain criteria as to size of issue, availability of information and status of payments for principal and interest. The loan value of these unlisted debt securities will be set at the same "good faith" loan value presently effective for nonconvertibe debt securities traded on exchanges. The Board is adopting this rule change under authority of sections 7 and 23 of the Securities Exchange Act of 1934 to improve the efficiency of capital markets and to promote competitive equality between brokers and banks.

EFFECTIVE DATE: October 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert S. Plotkin, Assistant Director, or Laura Homer, Chief Attorney, Securities Regulation, Divison of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-2782.

SUPPLEMENTARY INFORMATION: The Board published for comment a proposal to amend §§ 220.4 and 220.8 of regulation T in the FEDERAL REGISTER on May 16, 1978 (43 FR 21008) and asked for comments. The only substantive difference between that proposal and this adopted amendment is in the loan value which brokers may assign to nonconvertible debt securities. The original proposal would have set a uniform 70 percent loan value (i.e., a 30 percent initial margin), for all eligible debt securities. In response to comments received, the present "good faith" margin rule will be continued for nonconvertible debt securities traded on exchanges and extended to nonconvertible debt securities meeting certain criteria which will be designated in the rule as "OTC margin bonds." Certain other technical changes suggested by commentators are also incorporated in the adopted amendment.

Accordingly, pursuant to sections 7 and 23 of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78g and w) the board amends 12 CFR Part 220 as follows:

In § 220.2, paragraph (f) is revised and paragraph (i) is added to read as follows:

§ 220.2 Definitions.

* * * * *

(f) The term margin security means any registered security, OTC margin stock or OTC margin bond.

* * * * *

(i) The term "OTC margin bond" means a debt security not traded on a national securities exchange which meets all of the following requirements:

(1) At the time of the extension of credit, a principal amount of not less than $25,000,000 of the issue is outstanding.

(2) The issue was registered under section 5 of the Securities Act of 1933 and the issuer either files periodic reports pursuant to section 13(a) or 15(d) of the Securities Exchange Act of 1934 or is an insurance company which meets all of the conditions specified in section 12 (g)(2)(G) of the Act.

(3) At the time of the extension of credit, the creditor has a reasonable basis for believing that the issuer is not in default on interest or principal payments.

In § 220.4, paragraph (i) is added to read as follows:

§ 220.4 Special accounts.

* * * * *

(i) *Special bond account.* In a special bond account a creditor may extend and maintain credit on any exempted security, registered nonequity security or OTC margin bond. The maximum loan value of securities held in this account shall be as prescribed from time to time in § 220.8 (the supplement to regulation T). Call options may be issued, endorsed, or guaranteed in this account on any underlying equity security which is held in this account because it is an exempted security.

* * * * *

In § 220.8, paragraph (b) is revised to read as follows:

§ 220.8 Supplement.

* * * * *

(b) *Maximum loan value for special bond account.* The maximum loan value of an exempted security, a registered nonequity security or an OTC margin bond held in a special bond account subject to § 220.4(i) shall be as determined by the creditor in good faith.

* * * * *

By order of the Board of Governors, September 20, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-26964 Filed 9-25-78; 8:45 am]

[6720-01]

CHAPTER V—FEDERAL HOME LOAN BANK BOARD

SUBCHAPTER B—FEDERAL HOME LOAN BANK SYSTEM

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

[No. 78-515]

Amendments Concerning Tax and Loan Accounts

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: By these amendments the Federal Home Loan Bank Board permits Federal savings and loan associations to participate as depositories for Federal taxes and as Treasury tax and loan depositories, as authorized by Pub. L. 95-147 of October 28, 1977. This action is needed because the Bank Board's present regulations do not authorize such participation.

EFFECTIVE DATE: September 29, 1978.

FOR FURTHER INFORMATION, CONTACT:

Rebecca H. Laird, Associate General Counsel, Federal Home Loan Bank Board, 1700 G Street NW., Washington, D.C. 20552 202-377-6446.

SUPPLEMENTARY INFORMATION: Pub. L. 95-147 has made it possible for savings and loan associations, including those with Federal charters, to participate in the Treasury tax and loan account system. Previously, only incorporated banks and trust companies were eligible.

By Resolution No. 78-251, dated April 18, 1978 (43 FR 17831), the Federal Home Loan Bank Board proposed various minor regulatory changes to facilitate such participation by Federal savings and loan associations. Basically, the changes would explicitly authorize Federal associations to pledge collateral and maintain appropriate

withdrawable accounts—tax and loan accounts and note accounts.

The Bank Board proposed to alter a number of its other regulations to fit tax and loan and note accounts into the existing provisions governing liquidity, insurance coverage and premiums, Federal insurance reserve, and borrowings.

Concerning liquidity, both tax and loan accounts and note accounts would be counted in the liquidity base. However, if the collateral pledged by an association against either a tax and loan account or a note account contained liquid assets as defined by the Bank Board, the assets could be counted toward meeting a portion of the liquidity requirement.

Insurance coverage would be $40,000, and would extend only to the tax and loan account (§§ 564.8(c), 561.3). With respect to insurance premiums and FIR, calculations pertaining to tax and loan accounts would be done on an averaged basis, rather than as of year end, to take into account possible large fluctuations in the balances of such accounts. Since note accounts are not considered eligible for insurance, they would not be taken into account for either premium or FIR purposes. Regarding the regulation imposing restrictions on borrowings, note accounts would be exempted from coverage (§ 563.8).

The remaining changes would clarify the status or effects of the new accounts. They would expressly remove note accounts from rate control (§ 526.2-1), and exclude both types of accounts from the prohibition against issuance by insured institutions of demand securities (§ 563.6). In addition, to ensure conformity of terminology and avoid confusion of tax and loan accounts and note accounts with savings accounts or savings deposits, new definitional language would be added (§§ 526.1 (e), (n), (o), 561.11b, 561.11c).

In response to its invitation for comments on these proposed amendments by May 26, 1978, the Bank Board received comments from two trade associations and two savings and loan associations.

One respondent feared that the stipulation in § 526.1(n) that tax and loan accounts are subject to the right of immediate withdrawal, and that they are not savings accounts or savings deposits, could cause them to be regarded as demand deposits. The Bank Board believes that the proposed regulation clearly does not grant demand deposit authority. It merely ensures that Federal associations have the authority to assure the Treasury Department that it can have the right of immediate access to tax moneys deposited in Federals. The Bank Board believes it is clear that the tax and loan account is a special device which can only be used in the tax and loan context.

This respondent also stated that it believed the Bank Board's regulations should explain that tax and loan account withdrawals are processed through the Federal Reserve, and thus will be subject to a new type of withdrawal procedure. The Bank Board believes such an explanation would be superfluous. Any institution interested in participating in the TT&L system will have to comply with Treasury Department regulations on the subject, which are clear as to the manner in which withdrawals are to be processed.

Another respondent objected to inclusion of tax and loan accounts and note accounts in an institution's liquidity base, and in the calculations of its FIR and insurance premiums, as well as to wording in one section which it believed implicitly acknowledged a higher degree of Treasury Department control over S&L participation in the TT&L program than was intended by Congress. In addition, the respondent urged that the Bank Board take certain collateral actions having no precise bearing on the regulatory proposal, which will not be discussed here.

Concerning liquidity, the respondent basically argued that there is no safety justification for including tax and loan accounts and note accounts in liquidity base computations because the accounts will be collateralized to the extent they are not covered by insurance. It argued that to require S&Ls to increase their liquidity to cover the new accounts will simply make less money available for mortgage loans, and, further, that the fluctuating nature of the balances in the accounts will make it more difficult for associations to comply with the liquidity requirement. In addition, it stated that banks do not have comparable restrictions, and that including the accounts in the liquidity base could thus serve as a deterrent to S&L participation.

The safety issue is one which the Bank Board has considered at some length. The Bank Board has concluded that because these accounts will rarely, if ever, be collateralized by assets which are not liquid it is not necessary that they be included in an institution's regulatory liquidity base. The proposed definitions of "withdrawable accounts" and "short-term borrowings" in §§ 523.10 (d) and (e) have therefore been changed to exclude tax and loan accounts and note accounts. Section 523.10(j), which would have permitted a portion of liquid assets collateralizing such accounts to be counted as required liquidity, has been omitted as unnecessary.

With regard to calculation of FIR and insurance premiums, the respondent objected to the fact that associations will be required to keep daily records of relevant balances, which they will have to average at year-end. It argued that this will create unnecessary recordkeeping problems, pointed out that in other cases keeping of average daily balances is not required, and suggested that tax and loan accounts should have neither FIR nor insurance premium consequences. In the Bank Board's view, daily balances must be recorded because of the volatile nature of the accounts. There would simply be too much risk that whatever figure appeared on the last day of the year would be completely unrepresentative of a "normal" day's balance. Since the Treasury Department has structured the TT&L system in such a way that daily cognizance must be taken of balances, the Bank Board does not believe it will cause institutions any appreciable burden to make the required daily calculations. As for the suggestion that the accounts not count for FIR and premium purposes, the Bank Board believes it would be inappropriate for the FSLIC to extend insurance coverage to an account without receiving a premium and the protection afforded by the required reserve increment.

Respecting the general authorization in § 545.24-4 allowing Federal associations to participate in the TT&L system, "subject to regulations of the U.S. Treasury Department," the respondent asserted that the quoted language implies that Treasury could, by regulation, effectively abort or curtail the power conferred by Congress upon those associations. The respondent suggested that the regulation be changed to read as follows:

> Federal associations may serve as depositories for Federal taxes or as Treasury tax and loan depositories, and satisfy any requirement of U.S. Treasury Department regulations in connection therewith, including maintaining accounts described in §§ 526.1(n) and 526.1(o) of this chapter, and pledging collateral.

As a practical matter, the Bank Board does not see any difference between its proposal and that of the respondent. Furthermore, the Bank Board considers respondent's fears of Treasury overreaching groundless, and therefore fails to see any need to change its proposed § 545.24-4 in accord with the respondent's suggestion.

Accordingly, the Bank Board hereby amends: Part 523 by revising § 523.10 (d) and (e); Part 526 by revising paragraph (e) of § 526.1 and adding new paragraphs (n) and (o), and adding a new § 526.2-1; Part 545 by adding new § 545.24-4; Part 561 by revising § 561.3, and adding new §§ 561.11b and 561.11c;

Part 563 by revising § 563.6, adding a new paragraph (e) to § 563.8, and revising §§ 563.13(a)(1) and 563.15(a); and Part 564 by adding to § 564.8 a new paragraph (c)—all of which to read as set forth below.

§ 523.10 Definitions.

For the purposes of this section, §§ 523.11, and 523.12:

* * * * *

(d) The term "net withdrawable accounts" means the amount of all withdrawable accounts less the unpaid balance of all loans on the security of such accounts, but does not include tax and loan accounts or note accounts.

(e) The term "short-term borrowings" means the amount of all borrowings which are payable on demand or which are due for payment in 1 year or less, but does not include tax and loan accounts or note accounts.

* * * * *

§ 526.1 Definitions.

As used in this Part 526:

* * * * *

(e) *Savings account.* The term "savings account" means any deposit, withdrawable or repurchasable share, investment certificate, or other withdrawable account, except a tax and loan account or note account.

* * * * *

(n) *Tax and loan account.* The term "tax and loan account" means an account, the balance of which is subject to the right of immediate withdrawal, established for receipt of payments of Federal taxes and certain U.S. obligations; such accounts are not savings accounts or savings deposits.

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

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

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

§ 545.24–4 Tax and loan depositories.

Subject to regulations of the U.S. Treasury Department, Federal associations may serve as depositories for Federal taxes or as Treasury tax and loan depositories, and satisfy any requirement in connection therewith, including maintaining accounts described in §§ 526.1(n) and 526.1(o) of this chapter, and pledging collateral.

§ 561.3 Insured account.

An "insured account" is a savings account, tax and loan account, or checking account held by an insured member in an institution insured by the corporation. Accounts which by the terms of the contract of the holder with the institution or by provisions of State law cannot be withdrawn or the value thereof paid to the holder until all of the liabilities, including other classes of share liabilities, of the institution have been fully liquidated and paid upon the winding up of the institution are not insurable, and are hereinafter referred to as "nonwithdrawable accounts". Subordinated debt securities and mortgage-backed bonds issued by an insured institution are deemed not to be "accounts", and such securities are not insurable.

§ 561.11b Tax and loan account.

The term "tax and loan account" shall have the meaning given in § 526.1(n) of this chapter.

§ 561.11c Note account.

The term "note account" shall have the meaning given in § 526.1(o) of this chapter.

§ 563.6 Demand securities.

No insured institution may issue any demand securities or advertise or represent that it will pay holders of its securities on demand, except that this section does not apply to checking accounts as defined in § 561.11a of this subchapter, or to tax and loan accounts or note accounts.

§ 563.8 Limitation upon borrowing.

* * * * *

(e) For purposes of this section, note accounts are not borrowings.

§ 563.13 Required amounts and maintenance of Federal insurance reserve and net worth.

(a) *Federal insurance reserve requirements.* (1) *Minimum required amounts.* After the fiscal year in which a certificate of insurance is issued, each insured institution shall build up its Federal insurance reserve account so that, as of the close of business on the annual closing date following each anniversary of the date of insurance of accounts, such account shall be at least equal to the amount obtained by multiplying the percentage corresponding to such anniversary date, as set forth in the table below, by either (i) The amount of the institution's checking, tax and loan, and savings account balances on such closing date; or (ii) the average of such account balances on such closing date and on one or more of the four immediately preceding annual closing dates, provided all such dates are consecutive. In any event, unless otherwise permitted in writing by the corporation, each insured institution shall build up its Federal insurance reserve account so that, at any one annual closing date prior to the 26th anniversary of its insurance of accounts, such account shall be at least equal to 5 percent of the institution's checking, tax and loan, and savings account balances on such closing date. For purposes of this section, the amount of tax and loan account balances on an annual closing date shall be the average daily amounts in such accounts during the applicable year.

* * * * *

§ 563.15 Insurance premiums.

(a) *General provisions.* Except as provided in paragraph (b) of this section, each institution whose application for insurance is approved by the corporation shall pay to the corporation a premium charge for such insurance equal to one-twelfth of 1 percent of the total amount of all accounts (except note accounts) of the insured members of such institution. Each insured institution shall pay such premium at the time its certificate of insurance is issued by the corporation and thereafter annually on the anniversary of the issuance of such certificate. The amount of each premium to be paid by an insured institution shall be determined on the basis of the most recent report filed by such institution with the corporation, except that any insured institution which has not filed such a report within 60 days of any premium anniversary date shall provide more recent information if requested to do so by the corporation. Any amount contained in any such report covering interest accrued, but not due and payable, or dividends declared but not due and distributable, upon an account of an insured member will not be included by the corporation in the computation of premiums. For purposes of this section, the total amount of a tax and loan account shall be the average daily balance in such account since the institution's last premium anniversary date, unless the account has been established after such date, in which case the average shall be calculated from the date of establishment of the account.

* * * * *

§ 564.8 Public unit accounts.

* * * * *

(c) This section does not apply to tax and loan accounts.

(Pub. L. 95-147 of October 28, 1977, sec. 4, 82 Stat. 856, sec. 4, 80 Stat. 824, and sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1425a, 1425b, and 1437). Sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464), Secs. 401-405, 407, 48 Stat. 1255-1260, as amended (12 U.S.C. 1724-1728, 1730), Reorg. Plan No. 3 of 1947, 172 FR 4891, 3 CFR, 1943-1948 Comp., p. 1071.)

Dated: September 20, 1978.

By the Federal Home Loan Bank Board.

J. J. FINN,
Secretary.

[FR Doc. 78-27062 Filed 9-25-78; 8:45 am]

[3510-25]

Title 15—Commerce and Foreign Trade

CHAPTER III—INDUSTRY AND TRADE ADMINISTRATION, BUREAU OF TRADE REGULATION

PART 370—EXPORT LICENSING GENERAL POLICY AND RELATED INFORMATION

Revision of Exports Controlled by Other Agencies; Treasury Department

AGENCY: Office of Export Administration, Department of Commerce.

ACTION: Final rule.

SUMMARY: Department of Commerce regulations govern the export of all commodities and technical data not specifically controlled by other Government departments and agencies. These other departments and agencies are listed in the Department's Export Administration Regulations. The Department of the Treasury announced recently that changed economic conditions and other factors made it unnecessary for Treasury to continue controlling exports of 1-cent coins (43 FR 24691, June 7, 1978). The Treasury action was effective June 7, 1978. This revision makes exports of 1-cent coins subject to the Export Administration Regulation as of that date. Under Commerce regulations, commercial exports of 1-cent coins may be made under General License G-DEST (i.e., no application is required and no license document issued) to all destinations except Southern Rhodesia, North Korea, Vietnam, Cambodia, and Cuba.

EFFECTIVE DATE: June 7, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Department of Commerce, Washington, D.C. 20230, telephone 202-377-4196.

Accordingly, § 370.10(c) of the Export Administration Regulations (15 CFR Part 370) is deleted and reserved.

(Sec. 4 Pub. L. 91-184, 83 Stat. 842 (50 U.S.C. App. 2403), as amended; E.O. 12002, 42 FR 35623 (1977); Department Organization Order 10-3, dated December 4, 1977, 42 FR 64721 (1977); and Industry and Trade Administration Organization and Function Order 45-1, dated December 4, 1977, 42 FR 64716 (1977).)

STANLEY J. MARCUSS,
Deputy Assistant Secretary for Trade Regulation.

SEPTEMBER 20, 1978.

[FR Doc. 78-26954 Filed 9-25-78; 8:45 am]

[3510-25]

PART 379—TECHNICAL DATA

Revision of General License GTDR: Technical Data Under Restriction

AGENCY: Office of Export Administration, Department of Commerce.

ACTION: Final rule.

SUMMARY: Export licensing jurisdiction over "Airborne detection and tracking equipment using infrared radiation" has recently been transferred from the Office of Munitions Control in the Department of State to the Office of Export Administration in Department of Commerce. Because these commodities have military as well as civilian applications, the export of such commodities has been made subject to validated licensing control under the Export Administration Regulations (CCL entry No. 1502). This rule places exports of all technical data relating to such commodities except for that exportable under General License GTDA (15 CFR 379.3), under validated licensing control. The Department of Commerce has concluded, in consultation with other Federal departments and agencies that advise it regarding export licensing matters, that a case-by-case review of the export of such data through the validated licensing system is necessary in order to carry out the policies set forth in section 3(2)(c) of the Export Administration Act of 1969, as amended.

EFFECTIVE DATE: September 26, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Department of Commerce, Washington, D.C. 20230, telephone 202-377-4196.

Accordingly, § 379.4(d) of the Export Administration Regulations (15 CFR 379.4(d)) is revised by deleting the word "and" at end of paragraph sub (7), adding a new subparagraph (8), and renumbering present paragraph sub (8) to (9), as follows:

* * * * *

(d) *Restrictions Applicable to all Destinations Except Canada* * * *

(8) Airborne detection and tracking equipment using infrared radiation; and

(9) Any other commodity * * *

* * * * *

(Sec. 4 Pub. L. 91-184, 83 Stat. 842 (50 U.S.C. App. 2403), as amended; E.O. 12002, 42 FR 35623 (1977); Department Organization Order 10-3, dated December 4, 1977, 42 FR 64721 (1977); and Industry and Trade Administration Organization and Function Order 45-1, dated December 4, 1977, 42 FR 64716 (1977).)

STANLEY J. MARCUSS,
Deputy Assistant Secretary for Trade Regulation.

SEPTEMBER 20, 1978.

[FR Doc. 78-26838 Filed 9-25-78; 8:45 am]

[3510-25]

PART 385—SPECIAL COUNTRY POLICIES AND PROVISIONS

Interpretation of Regulations on Exports and Reexports to Republic of South Africa and Namibia

AGENCY: Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

ACTION: Final rule.

SUMMARY: On February 16, 1978, an embargo was established on the export and reexport of all U.S.-origin commodities and technical data (except data generally available to the public) when the shipment was to or for use by or for military or police entities in the Republic of South Africa and Namibia. The Department has received inquiries as to whether certain entities in the Republic of South Africa and Namibia are considered police or military entities and hence subject to the embargo policy. To provide guidance for all persons involved in exporting or reexporting U.S.-origin commodities and technical data to these destinations, the Department is publishing an interpretation with respect to the entities mentioned in the inquiries.

EFFECTIVE DATE: September 21, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles C. Swanson, Director, Operations Division, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-377-4196.

Accordingly, Supplement No. 2 is added to part 385 of the Export Administration Regulations (15 CFR Part 385) to read as follows:

INTERPRETATIONS

[Supplement No. 2 to Part 385]

1. The Department has received inquiries as to whether certain entities in the Republic of South Africa and Namibia are considered police or military entities and hence subject to the embargo policy set forth in § 385.4.

(a) It is the Department's position that the following are police or military entities: ARMSCOR (Armaments Development and Production Corporation); Department of Prisons; Bureau of State Security; and South African Railways Police Force.

(b) It is also the Department's position that certain municipal and provincial law enforcement officials, such as traffic inspectors and highway patrolmen, although separate from the South African police, are police entities because they have functions that are performed by the police in the United States. Other law enforcement entities and officials that do not have functions performed by the police in the United States, such as the Department of Customs, Department of Justice, health inspectors and licensing authorities, are not considered police entities.

(c) The Department does not consider the National Institute of Defense Research (NIDR) to be a military entity, because it does research for private as well as military organizations. However, the provisions of section 385.4 would apply if, in an individual transaction, the person or firm intending to export or reexport commodities or technical data to NIDR knows or has reason to know that the goods or data will be used in a research project for the military or police.

(Sec. 4 Pub. L. 91-184, 83 Stat. 842 (50 U.S.C. App. 2403), as amended; E.O. 12002, 42 FR 35623 (1977); Department Organization Order 10-3, dated December 4, 1977, 42 FR 64721 (1977); and Industry and Trade Administration Organization and Function Order 45-1, dated December 4, 1977, 42 FR 64716 (1977).)

RAUER H. MEYER,
Acting Deputy Assistant Secretary for Trade Regulation.

[FR Doc. 78-27015 Filed 9-21-78; 3:44 pm]

[3510-25]

PART 386—EXPORT CLEARANCE

Corrections to Shipper's Export Declarations

AGENCY: Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

ACTION: Final rule.

SUMMARY: This revision conforms the Export Administration Regulations and Foreign Trade Statistics Regulations with respect to the procedures for amending Shipper's Export Declarations (SED's). Exporters or their agents are now permitted to correct or amend SED's by making the appropriate changes on a copy of the SED, without the need for filing a Shipper's Export Declaration Correction Form (Form 7403).

EFFECTIVE DATE: September 26, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230, 202-377-4196.

Accordingly, Part 386 of the Export Administration Regulations (15 CFR Part 386) is amended by revising §§ 386.3(k)(4), and 386.3(q) (1) and (2) as follows:

§ 386.3 Shipper's Export Declaration.

* * * * *

(k) *Optional ports of unlading.* * * *

(4) *Correcting the declaration.* As soon as the exporter, his forwarding agent or his carrier determines at which port the shipment is to be unloaded (whether in the country of ultimate destination or in a country of transit) such person shall correct the Shipper's Export Declaration to show the specific port of unloading and the name and address of the intermediate consignee to whom delivery is to be made. An intermediate consignee must be shown if the port of unloading is located in a country other than the country of destination. If the export is unloaded at more than one port, the quantity and value unloaded at each port and the name and address of each intermediate consignee should be given. The procedures for correcting and filing declarations are set forth in § 386.3(q).

* * * * *

(q) *Correction, cancellation, addition or amendment of information on Declaration*—(1) *Methods of changing declarations.* Exporters (or their agents) shall report corrections, cancellations, additions or amendments to information reported on Shipper's Export Declarations to the Customs Director at the port of exportation (or, in the case of mail shipments, to the Postmaster at the post office where the shipment was mailed) as soon as the need for such changes is determined. Changes may be made directly on the originally filed Shipper's Export Declaration if the originally filed Declaration has not already been mailed to the Bureau of the Census. If the originally filed Shipper's Export Declaration has already been mailed to the Bureau of the Census, a photocopy, carbon, or other legible copy of the originally filed Shipper's Export Declaration, on which the incorrect data are neatly lined out and the corrected data entered, shall be promptly filed with the Customs Director at the port of exportation (or, in the case of mail shipments, with the Postmaster at the post office where the shipment was mailed). Any changes to the declaration should be identified as such on the face of the declaration. (A copy of the changed declaration should also be filed with the Director, Compliance Division, Office of Export Administration, if the original declaration was required under § 386.3(o)(i) to be so filed.) Such changed copies should have the words "CORRECTION COPY" conspicuously shown in the upper right portion of the form.

(2) *Responsibility.* Nothing herein shall relieve any person or firm making changes on the Declaration from responsibility for any such changes. Acceptance of a changed declaration by the Customs office does not imply approval of any act involved in the shipment or the truth or accuracy of the information provided.

(Sec. 4 Pub. L. 91-184, 83 Stat. 842 (50 U.S.C. App. 2403), as amended; E.O. 12002, 42 FR 35623 (1977); Department Organization Order 10-3, dated December 4, 1977, 42 FR 64721 (1977); and Industry and Trade Administration Organization and Function Order 45-1, dated December 4, 1977, 42 FR 64716 (1977).)

STANLEY J. MARCUSS,
Deputy Assistant Secretary for Trade Regulation.

SEPTEMBER 20, 1978.

[FR Doc. 78-26834 Filed 9-25-78; 8:45 am]

[3510-25]

PART 399—COMMODITY CONTROL LIST AND RELATED MATTERS

Revision of Commodity Control List

AGENCY: Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce

ACTION: Final rule.

SUMMARY: The Office of Export Administration (OEA) has determined that the transistors and diodes listed below do not meet the Department of Commerce security guidelines in that they would not contribute significantly to the development, production, or use of military hardware in the U.S.S.R., the other Communist countries of Eastern Europe, Laos, or the

People's Republic of China to the detriment of U.S. national security. The foreign availability of these commodities was taken into account in reaching this decision.

Previously, a firm was required to submit an application to OEA and receive specific authorization before exporting these transistors and diodes to all destinations except Canada.

This revision retains these commodities under validated license control for export only to southern Rhodesia, North Korea, Vietnam, Cambodia, and Cuba, and to the Republic of South Africa and Namibia if intended for military or police entities. Exports to other destinations may now be made under General License G-DEST (see § 371.3). The two entries listed below will be deleted and the commodities will be included in CCL entry No. 6599.

EFFECTIVE DATE: September 26, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230, 202-377-4196.

Accordingly, the Commodity Control List, incorporated by reference in 15 CFR Part 399, is revised by deleting the following entries:

Export control commodity number and commodity description	Unit	Processing code	Validated license required	GLV $ value limits T	V	Q
4544B Semiconductor diodes and thyristors, n.e.s., having a bulk material other than selenium or copper oxide, as follows:.		EE	SX			
(a) Bulk effect devices and oscillator diodes used for the direct conversion of DC to RF power designed or rated for use at output frequencies greater than 300 MHz but not exceeding 1 GHz;.						
(b) Fast recovery diodes having a rated maximum reverse recovery time of less than 2 nanoseconds but not less than 1 nanosecond;.						
(c) Tunnel diodes having both of the following characteristics: (i) a resistive cut-off frequency (F_{RO}) of 20 GHz or less, and (ii) a maximum reverse recovery time of 1 nanosecond or greater; and:.						
(d) Parts and accessories therefor.						
4545B Transistors, n.e.s., having any of the following characteristics:		EE	SZ			
(a) Germanium types having either:						
(1) An average f_T in MHz, or						
(2) A product of the average f_T in MHz and the maximum collector dissipation in Watts exceeding 1,000;.						
(b) Silicon types having any of the following characteristics:						
(1) An average f_T greater than 700 MHz up to and including 2000 MHz,						
(2) A product of the average f_T in MHz and the maximum collector dissipation in Watts exceeding 350 up to and including 3000, or.						
(3) Field effect transistors encapsulated in nonhermetically sealed cases and having a maximum power dissipation of 500 mW or less and a maximum operating frequency of 250 MHz or less; and.						
(c) Parts and accessories therefore.						

(Sec. 4 Pub. L. 91-184, 83 Stat. 842 (50 U.S.C. App. 2403), as amended; E.O. 12002, 42 FR 35623 (1977); Department Organization Order 10-3, dated December 4, 1977, 42 FR 64721 (1977); and Industry and Trade Administration Organization and Function Order 45-1, dated December 4, 1977, 42 FR 64716 (1977).)

STANLEY J. MARCUSS,
Deputy Assistant Secretary for Trade Regulation.

SEPTEMBER 20, 1978.

[FR Doc. 78-26955 Filed 9-25-78; 8:45 am]

[8010-01]

Title 17—Commodity and Securities Exchanges

CHAPTER I—COMMODITY FUTURES TRADING COMMISSION

PART 140—ORGANIZATION, FUNCTIONS AND PROCEDURES OF THE COMMISSION

Disposition of Business by Seriatim Commission Consideration

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commission adopts procedures used when action is authorized or business conducted through the consideration and approval of individual Commissioners rather than through joint deliberation. These procedures are designated to facilitate the orderly conduct of agency business.

EFFECTIVE DATE: September 26, 1978.

FOR FURTHER INFORMATION CONTACT:

Jane Stuckey, Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581, 202-254-6314.

SUPPLEMENTARY INFORMATION: The Commission has adopted regulation 140.12 to codify its existing practice by which the Commission occasionally conducts business without joint deliberation of its members. This procedure consists of circulating the relevant documents to the individual members of the Commission for their consideration and approval and is generally used when time constraints do not permit any other means of consideration or when joint deliberation is unnecessary. The procedure is used, for example, when the Commission has considered a staff proposal at a Commission meeting and has determined that the proposal should be approved with certain amendments. Rather than rescheduling the matter for a later Commission meeting, the

documents containing the amended proposal are circulated among the members of the Commission for their individual consideration and approval. Because the documents or other materials would generally be reviewed only to determine whether they properly reflect the Commission's previous determination, further joint deliberation would be unnecessary.

As adopted, § 140.12 provides that if the Chairman of the Commission determines that joint deliberation among the members of the Commission upon any matter is unnecessary in light of the nature of the matter, impracticable, or would impede the orderly disposition of agency business, a matter may be disposed of by circulation of the relevant materials to the individual Commissioners. Section 140.12 further provides that upon the request of any member of the Commission, a matter being circulated for seriatim consideration shall be withdrawn from circulation and scheduled for a Commission meeting.

The Commission finds that § 140.12 relates solely to agency practice and procedure and that the relevant provisions of the Administrative Procedure Act, 5 U.S.C. § 553, requiring notice of proposed rulemaking, opportunity for public participation and delay in effective date are not required.

In consideration of the foregoing the Commission hereby amends 17 CFR Part 140 by adding a new § 140.12 to read as follows:

§ 140.12 Disposition of business by seriatim Commission consideration.

(a) Whenever the Chairman of the Commission is of the opinion that joint deliberation among the members of the Commission upon any matter is unnecessary in light of the nature of the matter, impracticable, or would impede the orderly disposition of agency business, but is of the view that such matter should be the subject of a vote of the Commission, such matter may be disposed of by circulation of any relevant materials concerning the matter. The relevant materials shall be circulated to each member of the Commission, unless a member is unavailable or has determined not to participate in the matter. A written record of the vote of each participating Commission member shall be reported to the Secretariat who shall retain it in the records of the Commission.

(b) Whenever any member of the Commission so requests, any matter circulated for disposition pursuant to paragraph (a) of this section shall be withdrawn from circulation and scheduled instead for a Commission meeting.

(Sec. 2a(11) of the Act, 7 U.S.C. 4(a)(j) (1976).)

Issued in Washington, D.C., on September 20, 1978, by the Commission.

GARY L. SEEVERS,
Vice Chairman.

[FR Doc. 78-26953 Filed 9-25-78; 8:45 am]

[4810-22]

Title 19—Customs Duties

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

[T.D. 78-329]

IMPORTATION OF ALCOHOLIC BEVERAGES AND TOBACCO PRODUCTS

Miscellaneous Amendments

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

ACTION: Final rule.

SUMMARY: Various sections of the Customs regulations relating to the importation of alcoholic beverages and tobacco products cite sections of the Internal Revenue Service regulations. This rule will amend the Customs regulations to reflect the transfer of certain functions, powers, and duties of the Internal Revenue Service in connection with the importation of these articles to the Bureau of Alcohol, Tobacco and Firearms (BATF), to make other conforming changes, and to eliminate a requirement that importers of tobacco products prepare extra copies of certain Customs entry forms for BATF statistical purposes.

EFFECTIVE DATE: September 26, 1978.

FOR FURTHER INFORMATION CONTACT:

Todd J. Schneider, Regulations and Legal Publications Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, 202-566-8237.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Treasury Department order 221, dated June 6, 1972 (37 FR 11696), transferred certain functions, powers, and duties of the Internal Revenue Service relating to alcohol, tobacco, firearms, and explosives to the Bureau of Alcohol, Tobacco and Firearms. On April 15, 1975 (40 FR 16835), the Internal Revenue Service regulations formerly codified as 26 CFR Parts 170 through 299 were redesignated as the regulations of the Bureau of Alcohol, Tobacco and Firearms and codified in 27 CFR Parts 170 through 299. Because various sections of the Customs regulations refer to the former Internal Revenue Service regulations, conforming amendments to reflect this change are necessary.

In addition, §§ 19.16(g), 143.1(b), 143.26, and 144.38(b) of the Customs regulations (19 CFR 19.16(g), 143.1(b), 143.26, 144.38(b)) require that an additional copy of either Customs Form 7501, Consumption Entry; Customs Form 5199-A, Informal Entry; or Customs Form 7505, Duty Paid Warehouse Withdrawal for Consumption, marked or stamped "For Internal Revenue Purposes," be presented for each entry for consumption, or withdrawal from warehouse for consumption, of cigars, cigarettes, or cigarette papers or tubes, when the entry or release from Customs custody of those articles is subject to part 275 of the Internal Revenue Service regulations (26 CFR Part 275) and tax is payable to Customs.

This requirement was based on former § 275.81 of the regulations of the Bureau of Alcohol, Tobacco and Firearms (27 CFR 275.81), previously § 275.81 of the Internal Revenue Service regulations (26 CFR 275.81). This section required an importer of cigars, cigarettes, and cigarette papers and tubes to prepare an extra copy of the appropriate Customs form for each entry for consumption, or withdrawal from warehouse for consumption, of those articles and file it with Customs for transmittal to the assistant regional commissioner of the Internal Revenue Service of the region where the Customs district is located.

Until recently, the Bureau of Alcohol, Tobacco and Firearms needed the extra copy of the Customs forms to maintain statistics on importations of tobacco products. However, through cooperation of Customs, the Bureau of Alcohol, Tobacco and Firearms, the Bureau of the Census, and the International Trade Commission, it no longer is necessary for importers of cigars, cigarettes, and cigarette papers and tubes to prepare an extra copy of the Customs forms. Statistics now may be obtained directly from the Bureau of the Census.

Therefore, on June 14, 1976, the Bureau of Alcohol, Tobacco and Firearms amended § 275.81 of its regulations (27 CFR 275.81) to dispense with the requirement for the extra copy of the Customs form (41 FR 23950). Section 275.81 now requires that certain specified internal revenue tax information be included on the Customs form when cigars, cigarettes, or cigarette papers or tubes enter the United States for consumption, or when they are withdrawn from warehouse for consumption.

Additionally, § 54.3, Customs regulations, relating to bona fide gifts from members of the Armed Forces of the

United States serving in a combat zone, was deleted by Treasury decision 76-268 on September 24, 1976 (41 FR 41911). Therefore, it also is necessary to remove the reference to this section in § 11.3 of the Customs regulations (19 CFR 11.3).

The following sections of the Customs regulations are amended to reflect the foregoing changes:

Customs Regulations and 19 CFR section	Relating to—
10.99	Importations of ethyl alcohol for nonbeverage purposes.
11.1(b)	Packing and stamping of cigars and cigarettes.
11.2a	Release from Customs custody of cigars, cigarettes, cigarette papers or tubes without payment of tax.
11.3	Package and notice requirements for cigars, cigarettes, and cigarette papers and tubes.
11.7	Importation of distilled spirits and other alcoholic beverages in bottles and similar containers.
12.37(c)	Blending or rectifying of wines or distilled spirits in manufacturing warehouses, or the bottling of imported distilled spirits in manipulation warehouses.
19.16 (a) and (g)	Cigar-manufacturing warehouses.
22.23(e)	Drawback procedures for medicinal preparations and flavoring extracts.
22.25	Drawback claims for alcohol used in manufacturing.
141.61(h)	Entry of cigars, cigarettes, or cigarette papers or tubes.
141.102(b)	Transfer of distilled spirits in bulk to the bonded premises of a distilled spirits plant.
143.1(b)	Consumption entries of cigarettes, cigars, or cigarette papers or tubes.
143.26	Informal entries of cigars, cigarettes, or cigarette papers or tubes.
144.38 (b) and (c)	Withdrawals for consumption of cigars, cigarettes, or cigarette papers or tubes.
145.13(b)	Release of cigars, cigarettes, or cigarette papers or tubes for a manufacturer without payment of tax.
145.53	Importations of firearms, munitions of war, and related articles.
159.4(b)	Methods for the computation of duties and taxes on distilled spirits.
161.2(a)	Laws enforced by the Customs Service for other agencies.

Because these amendments merely conform the Customs regulations to the regulations of the Bureau of Alcohol, Tobacco and Firearms and relieve a filing requirement, notice and public procedure thereon are unnecessary and good cause exists for dispensing with the delayed effective date requirements of 5 U.S.C. 553.

Drafting Information

The principal author of this document was Todd J. Schneider, Regulations and Legal Publications Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Amendments to the Regulations

Parts 10, 11, 12, 19, 22, 141, 143, 144, 145, 159, and 161 of the Customs regulations (19 CFR Parts 10, 11, 12, 19, 22, 141, 143, 144, 145, 159, and 161) are amended as set forth below:

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

Section 10.99 is amended to read as follows:

§ 10.99 Importation of ethyl alcohol for nonbeverage purposes.[90]

(a) If claim is made by an importer other than the United States or a governmental agency thereof for the classification of ethyl alcohol of 185 degrees or more of proof under item 427.88, Tariff Schedules of the United States,[91] the importer or his agent shall file in connection with the entry a declaration that the alcohol is to be used for nonbeverage purposes only.

(1) Customs shall release the alcohol upon deposit of estimated duty, if any, and without payment of the internal revenue tax, only upon receipt of an application on Alcohol, Tobacco and Firearms (ATF) form 2609 (5110.16) submitted by the proprietor of the distilled spirits plant and approved by the appropriate Alcohol, Tobacco and Firearms officer. The ATF form 2609 (5110.16) allows the transfer of the alcohol under internal revenue bond to the bonded premises of the proprietor's plant for nonbeverage use.

(2) Before release of the alchohol from Customs custody, the Customs officer shall prepare four copies of ATF form 236 (5110.27) when the alcohol is to be removed in packages, or five copies when the alcohol is to be removed by pipeline or by bulk conveyance. The ATF form 236 (5110.27) should be appropriately modified to show:

(i) Serial number and date of the ATF form 2609 (5110.16);

(ii) Customs port of entry and entry number;

(iii) Consignee;

(iv) Kind of spirits;

(v) Name of the importer;

(vi) Country of origin (manufacture or production);

(vii) Method of transfer;

(viii) Elements of bulk gauge (if any);

(ix) Quantity to be transferred;

(x) Customs seals used (if any);

(xi) Date of release; and

(xii) Signature and title of the Customs officer instead of the proprietor. When shipments are made in tank cars or trucks, the Customs officer shall report details of the gauge of each car or truck separately. In the case of barrels, drums, or similar portable containers, he shall show details of the gauge on three copies of ATF form 2630 (5110.45). The Customs officer also shall note on ATF form 236 (5110.27) the rate of Customs duty paid and the rate which would have been applicable had the alcohol been imported for beverage purposes.[92] Upon compliance with Customs entry requirements and completion of the appropriate ATF forms, the Customs officer shall release the alcohol for transfer to the distilled spirits plant. The Customs officer shall retain one copy of ATF form 236 (5110.27) (and ATF form 2630 (5110.45), if any); forward one copy of ATF form 236 (5110.27) to the regional regulatory administrator, Bureau of Alcohol, Tobacco and Firearms, at the address shown on ATF form 2609 (5110.16); and forward the original and remaining copy (or copies) of ATF form 236 (5110.27) (and ATF form 2630 (5110.45), if any) to the Alcohol, Tobacco and Firearms officer at the distilled spirits plant.

(3) Before a shipment in a tank car or truck is released, a Customs officer shall seal all openings affording access to the alcohol with Customs seals in a manner which prevents unauthorized removal of the alcohol.

(4) When the distilled spirits plant is equipped with suitable dock facilities, the alcohol, subject to all requirements of the Customs laws and regulations, (i) may be transferred by pipeline from the importing vessel or barge through weighing tanks or other suitable measuring tanks into locked empty storage tanks on the bonded premises of the distilled spirits plant; or (ii) may be transferred directly into empty storage tanks on the premises, if the tanks are equipped with suitable measuring devices for correctly indicating the actual contents and the outlets are locked. In all pipeline transfers, the alcohol shall be transferred under Customs supervision, gauged immediately by a Customs officer, and then released for deposit in the distilled spirits plant. The Customs officer shall report the details of the gauge for internal revenue purposes on ATF form 236 (5110.27). Copies of the form shall be distributed as prescribed in subparagraph (2) of this paragraph.

(b) If ethyl alcohol is to be withdrawn from Customs custody by the United States or any governmental agency thereof for its own use for nonbeverage purposes, either before release under the entry without the deposit of estimated duties, if any, and internal revenue tax, or before release

in accordance with the provisions of § 141.102(d) of this chapter (when deposit of estimated duties or taxes is not required), an appropriate permit on ATF form 1444 (5150.33), shall be filed with the district director. The permit also may cover future withdrawals at that port, pursuant to appropriate entry in each case. The Customs officer who gauges the alcohol shall prepare three copies of a report of gauge on ATF form 2629 (5110.26). The alcohol then may be released for shipment to the governmental agency named in the permit, ATF form 1444 (5150.33). The Customs officer shall make the appropriate notation of the withdrawal on ATF form 1444 (5150.33), and shall state the permit number of the ATF form 1444 (5150.33) involved on each copy of ATF form 2629 (5110.26). The Customs officer shall retain the original of the ATF form 2629 (5110.26) with the permit on ATF form 1444 (5150.33), and shall forward one copy of ATF form 2629 (5110.26) to the governmental agency involved and one copy to the Director, Bureau of Alcohol, Tobacco and Firearms, Washington, D.C. 20226.

(c) Paragraphs (a) and (b) of this section are not applicable to withdrawal free of tax on the entry of ethyl alcohol for nonbeverage purposes from the Virgin Islands. Provisions for the release free of tax of distilled spirits, denatured distilled spirits, and products containing denatured spirits produced and withdrawn in the Virgin Islands are found in subpart O of Part 250, Bureau of Alcohol, Tobacco and Firearms Regulations (27 CFR Part 250, Subpart O).

(d) Upon completion of the applicable procedures outlined in this section, the entry shall be liquidated with the assessment of duty at the appropriate rate, if any, and without the assessment of internal revenue tax.

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624).)

PART 11—PACKING AND STAMPING; MARKING

§ 11.1 [Amended]

1. The first sentence in paragraph (b) of § 11.1 is amended by substituting "Bureau of Alcohol, Tobacco and Firearms" for "Internal Revenue Service".

2. Section 11.2a is amended to read as follows:

§ 11.2a Release from Customs custody without payment of tax on cigars, cigarettes and cigarette papers and tubes.

Cigars, cigarettes, and cigarette papers and tubes may be released from Customs custody without payment of any applicable internal revenue tax upon presentation of the Customs entry or withdrawal form and three copies of Alcohol, Tobacco and Firearms form 2145 (5200.11) or 3072 (5210.14), certified by the appropriate regional regulatory administrator, Bureau of Alcohol, and Tobacco and Firearms. The Customs officer shall complete the notice of release, retain one copy, send one copy to the regional regulatory administrator, and return one copy to the manufacturer. The release may not be made under a mail entry. See § 145.13(b) of this chapter.

§ 11.3 [Amended]

3. The first and last sentences of § 11.3 are amended by substituting "(27 CFR Part 275)" for "(26 CFR Part 275)". The third sentence of § 11.3 is amended by deleting the reference to § 54.3 of the Customs regulations.

4. The section heading and first sentence of § 11.7 are amended to read as follows:

§ 11.7 Distilled spirits and other alcoholic beverages imported in bottles and similar containers; regulations of the Bureau of Alcohol, Tobacco, and Firearms.

The importation of distilled spirits and other alcoholic beverages in bottles and similar containers is subject to regulations of the Bureau of Alcohol, Tobacco and Firearms relating to strip stamps and other matters. (27 CFR Parts 5, 201, and 251).* * *

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

PART 12—SPECIAL CLASSES OF MERCHANDISE

§ 12.37 [Amended]

1. Paragraph (c) of § 12.37 is amended by substituting "Bureau of Alcohol, Tobacco and Firearms" for "Alcohol Tax Unit, Internal Revenue Service."

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

PART 19—CUSTOMS WAREHOUSES, CONTAINER STATIONS AND CONTROL OF MERCHANDISE THEREIN

1. The third and fourth sentences of paragraph (a), and paragraph (g) of § 19.16 are amended to read as follows:

§ 19.16 Cigar-manufacturing warehouses.

(a) * * * When tax-paid cigars are returned to the manufacturing department of a cigar manufacturing warehouse from which withdrawn, in accordance with § 275.172 of the regulations of the Bureau of Alcohol, Tobacco and Firearms (27 CFR 275.172), they shall be accounted for properly and shall not be released for consumption except upon compliance with all applicable regulations. Customs shall keep a record of all cigars so returned to the manufacturing department, together with a copy of the schedule on Alcohol, Tobacco and Firearms form 3069 (5200.7).* * *

* * * * *

(g) Before removal from the bonded premises for consumption, each package of cigars shall be marked by legibly imprinting or branding on the package, or on a label securely affixed to the package, the statement (for Customs purposes) "Made in No. ——, Customs bonded manufacturing warehouse, class 6"; and as required in regulations of the Bureau of Alcohol, Tobacco and Firearms (27 CFR Part 275), a statement of the quantity and classification or class designation (for large cigars) of the cigars contained in each package.

(1) Upon withdrawal (release) for consumption of cigars subject to internal revenue tax, the manufacturer or proprietor of the class 6 warehouse shall pay the applicable tax to Customs by return, as provided in regulations of the Bureau of Alcohol, Tobacco and Firearms (27 CFR Part 275). The manufacturer or proprietor shall file two copies of the return on an appropriately modified Customs form 7505 (yellow) and one copy of Customs form 7505-A with the district director of Customs of the port where the warehouse is located. One return shall cover all cigars withdrawn (released) on any one day and shall be filed on the first business day after the date of withdrawal (release). The taxes covered by the return shall be secured by the Proprietor's Manufacturing Warehouse Bond, Customs form 3583.

(2) The taxpayer shall prepare the return to show, for tax purposes, the quantity and kind of cigars, the applicable rate of tax, and the amount of tax (see 27 CFR 275.81). The taxpayer, or his authorized agent under whose bond release is made, shall sign the return. The return will not be required to duplicate the information required for duty purposes under subpart D of part 144 of this chapter. One copy of the Customs form 7505 (yellow) shall be returned to the taxpayer, and one copy shall be retained by Customs. When accepted, the return shall be treated as an entry and liquidated upon payment of the taxes on the cigars and charges, if any.

* * * * *

(R.S. 251, as amended, secs. 484, 498, 624, 46 Stat. 722, as amended, 728, as amended, 759 (5 U.S.C. 301, 19 U.S.C. 66, 1484, 1498, 1624))

PART 22—DRAWBACK

1. The second and fourth sentences of paragraph (e) of § 22.23 are amended to read as follows:

§ 22.23 Procedure.

* * * * *

(e) * * * If no claim has been or will be filed with the Bureau of Alcohol, Tobacco and Firearms for the domestic drawback, the manufacturer shall submit two copies of a statement setting forth that fact to the regional regulatory administrator of the Bureau of Alcohol, Tobacco and Firearms for the region in which the manufacturer's factory is located. * * * The regional regulatory administrator shall verify the statement, forward the original of the document to the port designated, and retain the copy.* * *

* * * * *

2. Section 22.25 is amended to read as follows:

§ 22.25 Bureau of Alcohol, Tobacco and Firearms certificates and extracts.

(a) *Request.* The drawback claimant or manufacturer shall make a written request to the regional regulatory administrator, Bureau of Alcohol, Tobacco and Firearms where the alcohol used in manufacture was withdrawn, for the issuance of a tax-paid certificate on Alcohol, Tobacco and Firearms (ATF) form 5100.4, to the regional commissioner of Customs with whom the drawback claim will be processed.

(b) *Contents.* The request must state:

(1) Quantity of alcohol in taxable gallons;

(2) Serial number of each package;

(3) Serial number of the stamp;

(4) Amount of tax paid on the alcohol;

(5) Name, registry number, and location of the warehouse;

(6) Date of withdrawal;

(7) Name of the manufacturer using the alcohol in producing the exported articles;

(8) Address of the manufacturer and his manufacturing plant; and

(9) Customs region where the drawback claim will be processed.

(c) *Request accompanied by Customs form 7545.* If the request is accompanied by a Custom form 7545 showing any of the information required in paragraph (b) of this section, that information need not be repeated in the request.

(d) *Articles manufactured with the use of rectified or redistilled alcohol.* For drawback on flavoring extracts or medicinal or toilet preparations manufactured with the use of rectified or redistilled alcohol, the ATF form 5100.4 must state, in addition to other required information:

(1) Name of the rectifier;

(2) Quantity in wine gallons of rectified alcohol produced;

(3) Proof;

(4) Quantity in proof gallons produced;

(5) Amount of tax paid;

(6) Date of withdrawal; and

(7) Serial numbers of the rectifier's stamps covering the alcohol.

(e) *Extracts from Alcohol, Tobacco and Firearms certificates.* If a certification of any portion of the alcohol described in a certificate on AFT form 5100.4 is required for the liquidation of drawback entries processed in another region, the Regional Commissioner of Customs, on written application of the person who requested its issuance, shall transmit a copy of the extract from the certificate for use at that regional office. The Regional Commissioner shall note that the copy of the extract was prepared and transmitted.

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624).)

PART 141—ENTRY OF MERCHANDISE

1. Paragraph (h) of § 141.61 is amended to read as follows:

§ 141.61 Completion of entry papers.

* * * * *

(h) *Cigars, cigarettes, or cigarette papers or tubes.* On each entry of cigars, cigarettes, or cigarette papers or tubes (as those articles are defined in 27 CFR Part 275), which is subject to the regulations of the Bureau of Alcohol, Tobacco and Firearms, the separate statement for tax purposes required by § 275.81 (27 CFR 275.81) shall be made on the entry form.

2. Paragraph (b) of § 141.102 is amended to read as follows:

§ 141.102 When deposit of estimated duties not required.

* * * * *

(b) *Bulk distilled spirits transferred to the bonded premises of a distilled spirits plant.* An importer may transfer distilled spirits in bulk to the bonded premises of a distilled spirits plant under the provisions of section 5232(a), Internal Revenue Code of 1954, as amended (26 U.S.C. 5232(a)), and the regulations of the Bureau of Alcohol, Tobacco and Firearms (27 CFR Part 251), by filing an approved original copy of Alcohol, Tobacco and Firearms form 2609 (5110.16) with the entry or withdrawal for consumption, instead of depositing taxes.

* * * * *

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624).)

PART 143—CONSUMPTION, APPRAISEMENT, AND INFORMAL ENTRIES

§ 143.1 [Amended]

§ 143.26 [Reserved]

1. Part 143 is amended by deleting §§ 143.1(b) and 143.26 and marking those sections "Reserved."

(R.S. 251, as amended, secs. 484, 498, 624, 46 Stat. 722, as amended, 728, as amended, 759 (5 U.S.C. 301, 19 U.S.C. 66, 1484, 1498, 1624).)

PART 144—WAREHOUSE AND REWAREHOUSE ENTRIES AND WITHDRAWALS

1. Section 144.38 is amended by deleting paragraph (b) and marking that paragraph "Reserved" and by amending the last sentence of paragraph (c) to read as follows:

§ 144.38 Withdrawal for consumption.

* * * * *

(c) *Information to be shown on withdrawal.* * * * Additionally, on each withdrawal of cigars, cigarettes, or cigarette papers or tubes subject to internal revenue tax, the statement for tax purposes required by § 275.81 of the regulations of the Bureau of Alcohol, Tobacco and Firearms (27 CFR 275.81) shall be made on the withdrawal form.

* * * * *

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624).)

PART 145—MAIL IMPORTATIONS

§ 145.13 [Amended]

1. Paragraph (b) of § 145.13 is amended by substituting "27 CFR Part 275" for "26 CFR Part 275."

§ 145.53 [Amended]

2. Section 145.53 is amended by substituting "27 CFR Parts 47, 178, 179" for "26 CFR Parts 178–180."

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624).)

PART 159—LIQUIDATIONS OF DUTIES

§ 159.4 [Amended]

1. Paragraph (b)(1) of § 159.4 is amended by substituting "Bureau of Alcohol, Tobacco and Firearms" for "Internal Revenue Service."

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624).)

PART 161—GENERAL ENFORCEMENT PROVISIONS

§ 161.2 [Amended]

1. Paragraph (a)(1) of § 161.2 is amended by substituting "Bureau of Alcohol, Tobacco and Firearms" for "Internal Revenue Service."

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624).)

G. R. DICKERSON,
Acting Commissioner of Customs.

Approved: September 11, 1978.

RICHARD J. DAVIS,
Assistant Secretary of the Treasury.

[FR Doc. 78-26965 Filed 9-25-78; 8:45 am]

[4110-03]

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

SUBCHAPTER B—FOOD FOR HUMAN CONSUMPTION

[Docket No. 75N-3060]

PART 136—BAKERY PRODUCTS

Revocation of Stayed Standard for Enriched Raisin Bread

AGENCY: Food and Drug Administration.

ACTION: Revocation of stayed regulation.

SUMMARY: This document revokes the regulation establishing a standard of identity for enriched raisin bread which was stayed by the filing of an objection and request for a hearing. The Commissioner of Food and Drugs believes that the standard is made unnecessary by providing advice on the appropriate labeling for raisin bread made with enriched flour instead of flour and raisin bread enriched to the level of enriched white bread.

DATES: Effective November 27, 1978; objections by October 26, 1978.

ADDRESS: Written objections to the Hearing Clerk (HFA-305), Food and Drug Administration, room 4-65, 5600 Fishers Lane, Rockville, Md. 20906.

FOR FURTHER INFORMATION CONTACT:

Harold Salwin, Bureau of Foods (HFF-416), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-245-8531.

SUPPLEMENTARY INFORMATION: On October 26, 1976 (41 FR 46851), the Food and Drug Administration (FDA) issued a final regulation for the standard of identity for enriched raisin bread (21 CFR 136.165, formerly § 17.60, prior to recodification in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)). The regulation provided for the production of enriched raisin bread containing the same amount of nutrients required by the standard of identity for enriched bread (21 CFR 136.115) and the same quantity of raisins required by the standard for raisin bread (21 CFR 136.160). Although the identity standard for raisin bread makes no explicit provision for the use of enriched flour, the policy of FDA has been to refrain from taking action against raisin bread that deviates from the standard only in that it is made with enriched flour or that nutrients are added so that the raisin bread contains the levels of nutrients required by § 136.115.

The standard of identity for enriched raisin bread was proposed in the FEDERAL REGISTER of February 12, 1976 (41 FR 6269), in response to a recommendation by the American Bakers Association (ABA) that provision be made for raisin bread conforming to the nutrient requirements of the standard of identity prescribed for enriched white bread in § 136.115. The enrichment requirements in § 136.115 are expressed in units of milligrams of thiamine, riboflavin, niacin, and iron per pound of bread. In the manufacture of enriched white bread, the level of nutrients required can be provided simply by using flour that is enriched in accordance with the standard of identity for enriched flour (21 CFR 137.165). As the preamble to the proposal of February 12, 1976, recognized, however, in the manufacture of enriched raisin bread with enriched flour some of the enriched flour is displaced by raisins, with the result that the levels of enrichment will no longer meet the requirements of § 136.115 unless adjustments are made by the baker. There were no adverse comments regarding these particulars of the proposal. However, the final regulation, which is consistent with the proposal, has been stayed by the filing of an objection and request for a hearing by the ABA on the grounds that the provisions will not promote honesty and fair dealing in the interest of consumers under section 401 of the Federal Food, Drug, and Cosmetic Act. According to the ABA, additional facilities and costs would be required to supplement the enriched flour with additional enrichment ingredients to meet the requirements of the standard. The ABA now claims that there is no need for additional enrichment beyond that provided by the enriched flour.

The Commissioner has reviewed the facts in an effort to resolve the issue in a manner, consistent with consumer interests, that does not impose an unnecessary hardship on any producer. The difference in the nutritional quality of raisin bread made with enriched flour and of enriched raisin bread made to comply with the nutrient content requirements of § 136.115 is very small. There are differences analytically in several nutrients, but the Commissioner concludes that these differences will not significantly affect consumers' intakes of the nutrients. Furthermore, he advises that a raisin bread conforming to the requirements of § 136.160 except that it is made with enriched flour, enriched brominated flour, or a combination, as the sole farinaceous ingredient may be sold as a nonstandardized bread under a suitable name, e.g., "raisin bread made with enriched flour." Many breads are sold as nonstandardized foods when they contain and are named to identify ingredients not provided for in the standard for bread that provide a distinctive flavor, color, or other feature important to consumers, e.g., rye bread. If a raisin bread has been enriched to the nutrient levels in § 136.115, (with additional amounts of nutrients added to compensate for the flour displaced by the raisins), the food may be sold as "enriched raisin bread." Either raisin bread so labeled must also bear nutrition labeling in accordance with § 101.9 (21 CFR 101.9).

Since there is no further need for a separate identity standard for enriched raisin bread, the Commissioner is hereby giving notice that he is revoking the identity standard.

§ 136.165 [Revoked]

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner (21 CFR 5.1), Part 136 is amended by revoking § 136.165 *Enriched raisin bread, rolls, and buns.*

Any person who will be adversely affected by the foregoing regulation may at any time on or before October 26, 1978, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically

so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the hearing clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date: This regulation shall become effective November 27, 1978, except as to any provisions that may be stayed by the filing of proper objections. Notice of the filing of objections or lack thereof will be given by publication in the FEDERAL REGISTER.

Dated: September 18, 1978.

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

[FR Doc. 78-26813 Filed 9-25-78; 8:45 am]

[4110-03]

SUBCHAPTER D—DRUGS FOR HUMAN USE

[Docket No. 77N-0129]

PART 436—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

Isopropyl Myristate Sterility Test

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the antibiotic drug regulations by adding new restrictions to a diluting fluid to insure its suitability for the sterility testing of ophthalmic ointments.

EFFECTIVE DATE: October 26, 1978.

FOR FURTHER INFORMATION CONTACT:

Joan M. Eckert, Bureau of Drugs (HFD-140), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4292.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of February 24, 1978 (43 FR 7653), the Commissioner of Food and Drugs proposed that only isopropyl myristate with a pH of 5.5 or greater be used for the sterility testing of ophthalmic ointments under § 436.20(d)(5) (21 CFR 436.20(d)(5)).

One comment objected to the description of isopropyl myristate as "microbially nontoxic" when the pH is 5.5 or greater. The comment suggested that the term "reduced toxicity" replace "microbially nontoxic."

The Commissioner acknowledges that isopropyl myristate with a pH of 5.5 or greater is not "microbially nontoxic," but rather, the toxicity is reduced to a usable level that allows recovery of sensitive organisms in the time necessary to perform a sterility test. The Commissioner has reconsidered the matter in view of the comment and concludes that the appropriate requirement is that isopropyl myristate "have a water-extract pH of 5.5 or greater." Therefore, the phrase "and microbially nontoxic" has been deleted from the proposed test procedure.

No other comments were received; therefore, the Commissioner concludes that the remainder of the amendment should be adopted as proposed.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended (21 U.S.C. 357)) and under authority delegated to the Commissioner (21 CFR 5.1), § 436.20(d)(5) is revised to read as follows:

§ 436.20 Sterility test methods and procedures.

* * * * *

(d) * * *

(5) *Diluting fluid E.* Use isopropyl myristate that is sterile and that has a water-extract pH of 5.5 or greater. Determine the water-extract pH of a portion of the isopropyl myristate as follows: Place 100 milliliters of the isopropyl myristate sample and 10 milliliters of distilled water into a centrifuge bottle of approximately 250 milliliters capacity and seal the bottle tightly. Place the centrifuge bottle on a shaker so that its longest dimension is oriented in the direction of shaker movement and shake at 250 cycles per minute for 1 hour. Centrifuge the bottle at 1,800 revolutions per minute for 20 minutes. With a suitable vacuum system, remove and discard the upper layer; then pipet 5 milliliters of the lower water layer into a beaker and determine the pH using a standardized pH meter. If the water-extract pH is less than 5.5, pass the isopropyl myristate through a glass column packed with basic aluminum oxide, activity grade No. 1. Determine the water-extract pH of a portion of the isopropyl myristate that has been passed through the aluminum oxide column. Sterilize isopropyl myristate by filtration through a 0.22-micron membrane filter and aseptically dispense 100-milliliter portions into sterile 250-milliliter flasks.

* * * * *

Effective date: This amendment shall become effective October 26, 1978.

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

Dated: September 20, 1978.

MARY A. MCENIRY,
Assistant Director for Regulatory Affairs, Bureau of Drugs.

[FR Doc. 78-26950 Filed 9-25-78; 8:45 am]

[4110-03]

[Docket No. 78N-0249]

PART 449—ANTIFUNGAL ANTIBIOTIC DRUGS

Nystatin Vaginal Dosage Forms

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document revises the antibiotic drug regulations to provide for the certification of nystatin vaginal suppositories. Under section 507 of the Federal Food, Drug, and Cosmetic Act, the manufacturer has supplied sufficient data and information to establish the safety and efficacy of nystatin vaginal suppositories.

DATES: Effective September 26, 1978; comments by October 26, 1978.

FOR FURTHER INFORMATION CONTACT:

Joan Eckert, Bureau of Drugs (HFD-140), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4290.

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs, having evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357), as amended, with respect to providing for the certification of nystatin vaginal suppositories, concludes that the data supplied by the manufacturer are adequate to establish the safety and efficacy of nystatin vaginal suppositories when used as directed in the labeling, and that the regulations should be revised.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended (21 U.S.C. 357))

and under authority delegated to the Commissioner (21 CFR 5.1), Part 449 is amended as follows:

1. Section 449.650 is redesignated as § 449.650a and a new § 449.650 is added to read as follows:

§ 449.650 Nystatin vaginal dosage forms.

§ 449.650a Nystatin vaginal tablets.

* * * * *

2. A new § 449.650b is added to read as follows:

§ 449.650b Nystatin vaginal suppositories.

(a) *Requirements for certification.*—(1) *Standards of identity, strength, quality, and purity.* Nystatin vaginal suppositories contain in each suppository 100,000 units of nystatin in a suitable and harmless water soluble base. Its potency is satisfactory if it is not less than 90 percent and not more than 130 percent of the number of units of nystatin that it is represented to contain. Its moisture content is not more than 1.5 percent. The nystatin used conforms to the standards prescribed by § 449.50(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The nystatin used in making the batch for potency, safety, loss on drying, pH, and identity.

(*b*) The batch for potency and moisture.

(ii) Samples required:

(*a*) The nystatin used in making the batch: 10 packages, each containing approximately 500 milligrams.

(*b*) The batch: A minimum of 30 suppositories.

(b) *Tests and methods of assay.*—(1) *Potency.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Place a representative number of suppositories into a high-speed glass blender jar containing sufficient dimethylformamide to give a convenient concentration. Blend for 3 to 5 minutes. Dilute an aliquot with sufficient dimethylformamide to obtain a concentration of 400 units of nystatin per milliliter (estimated). Further dilute an aliquot with 10 percent potassium phosphate buffer, pH 6.0 (solution 6), to the reference concentration of 20 units of nystatin per milliliter (estimated).

(2) *Moisture.* Proceed as directed in § 436.201 of this chapter.

Because the conditions prerequisite to providing for certification of this drug have been complied with and as the matter is noncontroversial, the Commissioner finds for good cause that prior notice and public procedure and delayed effective date are unnecessary. However, interested persons may, on or before October 26, 1978, file with the Hearing Clerk (HFA-305), Food and Drug Administration, room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments, in four copies and identified with the docket number found in brackets in the heading of this document. Comments received may be seen in the office of the hearing clerk between 9 a.m. and 4 p.m., Monday through Friday. Any changes in this regulation justified by such comments will be the subject of a further amendment.

Effective date: This regulation shall be effective September 26, 1978.

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

Dated: September 20, 1978.

MARY A. MCENIRY,
Assistant Director for Regulatory Affairs, Bureau of Drugs.

[FR Doc. 78-26946 Filed 9-25-78; 8:45 am]

[4510-43]

Title 30—Mineral Resources

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

FEDERAL MINE SAFETY AND HEALTH

Technical, Nonsubstantive Revisions and Miscellaneous Amendments: Corrections

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

ACTION: Correction of rules and regulations.

SUMMARY: This document corrects amendments to rules and regulations that appeared on pages 12313 through 12320 in the FEDERAL REGISTER on Friday, March 24, 1978 (FR Doc. 78-7775).

FOR FURTHER INFORMATION CONTACT:

Frank A. White, Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 629, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Va. 22203, 703-235-1910.

CORRECTIONS: In FR Doc. 78-7775 appearing on pages 12313 through 12320 in the FEDERAL REGISTER on Friday, March 24, 1978, make the following changes:

1. On page 12312 immediately below the new title of chapter I in column 3 insert the following:

Each authority in parts 1, 11, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 35, 36, 50, 55, 56, 57, 70, 71, 74, 75, 77, and 90 is revised by adding the following:

Sections 301(a) and 302(a) of the Federal Mine Safety and Health Amendments Act of 1977, Pub. L. 95-164, 30 U.S.C. 961 and 951 and 29 U.S.C. 577a, 91 Stat. 1317 and 91 Stat. 1319; section 508 of the Federal Mine Safety and Health Act of 1977, Pub. L. 91-173 as amended by Pub. L. 95-164, 30 U.S.C. 957, 80 Stat. 803.

2. In part 11 on page 12313 the instruction for item 4 in column 1 is revised to read as follows:

In § 11.3, add a new definition (ll), after (kk) as follows: "'MSHA' means * * *."

3. In part 32 on page 12317, the fifth line of applicable sections for item 1 in column 2 is revised to read as follows:

32.5(b), 32.5(c), 32.6(a)(1), 32.6(a)(2), 32.6(a)(4),

4. In part 36 on page 12318, the 11th line of amended sections listed in column 1 is revised to read as follows:

36.43(b), 36.44(a), 36.45(b), 36.46(b), 36.46(c),

5. In part 57 on page 12319, the sixth line of amended sections listed in column 1 is revised to read as follows:

28(d), 57.18-28(e), 57.21-95, 57.21-96,

6. In part 57 on page 12319, the fifth and sixth lines of applicable sections for item 1 in column 1 are revised to read as follows:

28(b), 57.18-28(d), 57,18-28(e), 57.21-95, 57.21-96, 57.26-1.

7. In part 57 on page 12319, add an item 5 to read as follows:

5. In standard 57.5-40, delete "(b) * * *."

8. In part 70 on page 12319, the second line of applicable sections for item 1 in column 1 is revised to read as follows:

70.305-1, 70.400-1, 70.504, 70.504-1(a), 70.504-1(b),

9. In part 75 on page 12320, the first line of item 7 is revised to read as follows:

7. In §§ 75.1719-1(f), 75.1719-2(c)(2),

10. In part 90 on page 12320, the third line of amended sections listed in column 2 is revised to read as follows:

90.30, 90.31(a), 90.32, 90.33(b), Subpart E.

11. In part 90 on page 12320, the second line of applicable sections for item 6 in column 2 (last line) is revised to read as follows:

90.33(b), Subpart E (title), and 90.40(b) (figure 1).

Dated: September 21, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 78-27076 Filed 9-25-78; 8:45 am]

[4310-53]

CHAPTER VI—BUREAU OF MINES, DEPARTMENT OF THE INTERIOR

PART 610—COAL ANALYSIS FOR NON-FEDERAL APPLICANTS

Deletion of Regulations; Correction

AGENCY: Bureau of Mines, Interior.

ACTION: Correction of final rule.

SUMMARY: In FR Doc. 78-22283, which deleted regulations on coal analysis for non-Federal applicants and which appeared on page 35477 in the FEDERAL REGISTER of August 10, 1978, the contact person for the Department of Energy is corrected to read as follows:

William Schmidt, Acting Deputy Director, Division of Fossil Fuel Extractions, 4040 North Fairfax Drive, Arlington, Va. 22203, telephone 703-235-2700.

FOR FURTHER INFORMATION CONTACT:

William Schmidt, Acting Deputy Director, Division of Fossil Fuel Extraction, 703-235-2700.

Dated: September 15, 1978.

JOAN M. DAVENPORT,
Assistant Secretary of the Interior.

[FR Doc. 78-26937 Filed 9-25-78; 8:45 am]

[4810-34]

Title 31—Money and Finance: Treasury

CHAPTER VI—BUREAU OF ENGRAVING AND PRINTING, DEPARTMENT OF THE TREASURY

PART 605—REGULATIONS GOVERNING CONDUCT ON BUREAU OF ENGRAVING AND PRINTING BUILDING AND GROUNDS AND BUREAU OF ENGRAVING AND PRINTING ANNEX BUILDING AND GROUNDS

Republication and Amendment

AGENCY: Bureau of Engraving and Printing, Department of the Treasury.

ACTION: Final rule.

SUMMARY: The Bureau of Engraving and Printing is republishing its regulations concerning conduct in its buildings and on its grounds. The regulations are being republished to reflect recent changes in security measures and to reflect the prohibition of intoxicants and dangerous drugs on Bureau premises.

EFFECTIVE DATE: September 26, 1978.

FOR FURTHER INFORMATION CONTACT:

H. T. Krisak, Superintendent, Management Services Division, Bureau of Engraving and Printing, 14th and C Streets SW., Washington, D.C. 20228, 202-447-0261.

SUPPLEMENTARY INFORMATION: This republication incorporates several minor editorial changes, and it also makes the following amendments to §§ 605.3, 605.8, and 605.9:

1. Section 605.3 is amended by adding the following sentence at the end: "Individuals entering the property submit themselves to possible video surveillance."

2. Section 605.8 is amended by adding the following sentence at the end: "Intoxicants, nonprescription narcotics, and other controlled substances (21 CFR Part 1308) are prohibited on the property."

3. Section 605.9 is amended by inserting the phrase, "other than as provided by law" in the first sentence, to read as set forth below.

Under the provisions of 5 U.S.C. 553(a)(2), public notice is not required as these regulations involve a matter relating to the management of public property.

As amended, part 605, 31 CFR, reads as follows:

Sec.
605.1 Authority.
605.2 Applicability.
605.3 Recording presence.
605.4 Preservation of property.
605.5 Compliance with signs and directions.
605.6 Nuisances.
605.7 Gambling.
605.8 Intoxicating beverages, narcotics, and drugs.
605.9 Soliciting, vending, debt collection, and distribution of handbills.
605.10 Photographs.
605.11 Dogs and other animals.
605.12 Vehicular and pedestrian traffic.
605.13 Weapons and explosives.
605.14 Penalties and other law.

AUTHORITY: 5 U.S.C. 301; Delegation, Administrator, General Services, Treasury Department Order No. 177-25 (Revision 2).

§ 605.1 Authority.

The regulations in this part governing conduct in and on the Bureau of Engraving and Printing Building and grounds and the Bureau of Engraving and Printing Annex Building and grounds located in Washington, D.C., at 14th and C Streets SW., are promulgated pursuant to the authority vested in the Secretary of the Treasury, including 5 U.S.C. 301 and that vested in him by delegation from the Administrator of General Services, 38 FR 20650 (1973), and in accordance with the authority vested in the Director of the Bureau of Engraving and Printing by Treasury Department order No. 177-25 (revision 2), dated August 8, 1973, 38 FR 21947 (1973).

§ 605.2 Applicability.

These regulations apply to the building and grounds of the Bureau of Engraving and Printing Building and the Bureau of Engraving and Printing Annex Building located in Washington, D.C., at 14th and C Streets SW., and to all persons entering in or on such property. Unless otherwise stated herein, the Bureau of Engraving and Printing Building and grounds and the Bureau of Engraving and Printing Annex Building and grounds shall be referred to in these regulations as the "property." It is the responsibility of the occupant agencies to require observance of the regulations in this part by their employees.

§ 605.3 Recording presence.

Except as otherwise ordered, the property shall be closed to the public during other than normal working hours. The property shall also be closed to the public in emergency situations and at such other times as may be necessary for the orderly conduct of the Government's business. Admission to the property during periods when such property is closed to the public will be limited to authorized individuals who will be required to sign the register and/or display identification documents when requested by the guard. Individuals entering the property submit themselves to possible video surveillance.

§ 605.4 Preservation of property.

It shall be unlawful for any person without proper authority to willfully destroy, damage, deface, or remove property or any part thereof or any furnishings therein.

§ 605.5 Compliance with signs and directions.

Persons in and on the property shall comply with the instructions of uniformed Bureau of Engraving and Printing guards (U.S. Special Policemen), other authorized officials, and official signs of a prohibitory or directory nature.

§ 605.6 Nuisances.

The use of loud, abusive, or profane language, unwarranted loitering, unauthorized assembly, the creation of any hazard to persons or things, improper disposal of rubbish, spitting, prurient prying, the commission of any obscene or indecent act, or any other disorderly conduct on the property is prohibited. The throwing of any articles of any kind in, upon, or from the property and climbing upon any part thereof is prohibited. The entry, without specific permission, upon any part of the property to which the public does not customarily have access is prohibited.

§ 605.7 Gambling.

(a) Participating in games for money or other property, the operation of gambling devices, the conduct of a lottery or pool, the selling or purchasing of numbers tickets, or any other gambling in or on the property is prohibited.

(b) Possession in or on the property of any numbers slip or ticket, record, notation, receipt or other writing of a type ordinarily used in any illegal form of gambling such as a tip sheet or dream book, unless explained to the satisfaction of the head of the Bureau or his delegate, shall be prima facie evidence that there is participation in an illegal form of gambling in or on such property.

§ 605.8 Intoxicating beverages, narcotics, and drugs.

Entering or being on the property, or operating a motor vehicle thereon, by a person under the influence of intoxicating beverages, narcotics, hallucinogenic or dangerous drugs, or marijuana, or the consumption of such beverages or the use of such drugs or marijuana in or on the property is prohibited. Intoxicants, nonprescription narcotics, and other controlled substances (21 CFR Part 1308) are prohibited on the property.

§ 605.9 Soliciting, vending, debt collection, and distribution of handbills.

The unauthorized soliciting of alms and contributions, the commercial soliciting and vending of all kinds, the display or distribution of commercial advertising, or the collecting of private debts other than as provided by law, in or on the property is prohibited. This rule does not apply to Bureau of Engraving and Printing concessions or notices posted by authorized employees on the bulletin boards. Distribution of material such as pamphlets, handbills, and flyers is prohibited without prior approval from the Director, Bureau of Engraving and Printing, or his delegate.

§ 605.10 Photographs.

The taking of photographs on the property is prohibited, without the written permission of the Director, Bureau of Engraving and Printing. Title 18, U.S.C., Section 474 provides, in part, that whoever photographs any obligation or other security of the United States, or any part thereof, shall be fined not more than $5,000 or imprisoned not more than 15 years, or both.

§ 605.11 Dogs and other animals.

Dogs and other animals, except seeing-eye dogs, shall not be brought upon the property for other than official purposes.

§ 605.12 Vehicular and pedestrian traffic.

(a) Drivers of all vehicles in or on the property shall drive in a careful and safe manner at all times and shall comply with the signals and directions of guards and all posted traffic signs.

(b) The blocking of entrances, driveways, walks, loading platforms, or fire hydrants in or on the property is prohibited.

(c) Parking in or on the property is not allowed without a permit or specific authority. Parking without authority, parking in unauthorized locations or in locations reserved for other persons or continuously in excess of 8 hours without permission, or contrary to the direction of a uniformed Bureau of Engraving and Printing guard or of posted signs is prohibited.

(d) This paragraph may be supplemented from time to time with the approval of the Director, Bureau of Engraving and Printing, or his delegate by the issuance and posting of such specific traffic directives as may be required and when so issued and posted such directives shall have the same force and effect as if made a part hereof.

§ 605.13 Weapons and explosives.

No person while on the property shall carry firearms, other dangerous or deadly weapons, or explosives, either openly or concealed, except for official purposes.

§ 605.14 Penalties and other law.

Whoever shall be found guilty of violating the regulations in this part while on the property is subject to a fine of not more than $50 or imprisonment of not more than 30 days, or both (see 40 U.S.C. 318c). Nothing contained in the regulations in this part shall be construed to abrogate any other Federal laws or regulations or those of the District of Columbia applicable to the property referred to in § 605.2 and governed by the regulations in this part.

Dated: September 20, 1978.

SEYMOUR BERRY,
Director, Bureau of Engraving and Printing.

[FR Doc. 78-27060 Filed 9-25-78; 8:45 am]

[6820-26]

Title 41—Public Contracts and Property Management

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

[FPMR Amdt. B-41]

PART 101-11—RECORDS MANAGEMENT

Disposal Clearances; Vital Records Program

AGENCY: General Services Administration, National Archives and Records Service (NARS).

ACTION: Final rule.

SUMMARY: This rule amends the procedure for obtaining agency clearance to dispose of records stored in Federal records centers by extending the notification period from 30 to 90 days. This rule also eliminates the reporting requirements and provides additional guidance to Federal agencies on the management of their vital records programs. The notification period is being extended because of requests from certain agencies that felt they did not have enough time to review the status of their records. The reports are no longer needed since the information may be gathered in the course of Federal Preparedness Agency inspections.

EFFECTIVE DATE: September 26, 1978.

FOR FURTHER INFORMATION CONTACT:

Walter W. Stender, Assistant Archivist for Federal Records Centers, NARS, telephone 202-724-1598 (mailing address: General Services Administration (NC), Washington, DC 20408).

The table of contents for Part 101-11 is amended by revising the following entries:

Sec.
101-11.701 Emergency preparedness program; vital records.
101-11.701-4 Definitions.
101-11.701-5 Program considerations.
101-11.701-6 Vital records storage at GSA Federal Archives and Records Centers.
101-11.701-7 through 101-11.701-10 [Deleted].
101-11.4909 [Reserved].
101-11.4917 [Reserved].
101-11.4918 [Reserved].

Subpart 101–11.4—Disposition of Federal Records

Section 101–11.410–8 is amended by revising paragraph (b) to read as follows:

§ 101–11.410–8 Disposal clearances.

* * * * *

(b) Other records of Federal agencies held by records centers will be disposed of upon approval of the agency concerned by use of GSA Form 3144 (previously numbered GSA Form 7019), FRC Holdings Control Input, GSA Form 7015, Notice of Intent to Dispose of Records, or other written concurrence for each disposal action. If an agency is notified of the eligibility of its records for disposal and the agency fails to respond to this notification within 90 calendar days, the records will be disposed of in accordance with the appropriate authority.

Subpart 101–11.7—Vital Records: Records During an Emergency

1. Section 101–11.701 is recaptioned as set forth below and §§ 101–11.701–1 and 101–11.701–3 through 101–11.701–6 are revised to read as follows:

§ 101–11.701 Emergency preparedness program; vital records.

* * * * *

§ 101–11.701–1 Purpose.

This § 101–11.701 provides for the selection and protection of vital records required in the development of Federal agency emergency preparedness programs.

§ 101–11.701–3 Background.

(a) *General.* The original requirements for vital operating records protection programs were set forth in Bureau of the Budget Bulletins No. 51–14, May 22, 1951, and No. 52–5, September 6, 1951. Subsequent Government organizational and functional changes caused revisions in reporting requirements. The annual report reflecting the status of the vital records program of each Federal agency is no longer required.

(b) *Criteria and guides.* The Federal vital records program includes two basic categories: Emergency operating records and rights and interests records. The GSA Records Management Handbook entitled "Federal Archives and Records Center" provides further clarification of the two categories of records.

§ 101–11.701–4 Definitions.

The following definitions are pertinent to the development of a vital records program:

(a) "Emergency operating records" are records vital to the essential functions of the Federal Government for the duration of an emergency if the country is attacked. These records include those necessary for the military effort; the mobilization and protection of material and manpower resources, of services, and of systems; the maintenance of public health, safety, and order; and the conduct of essential civil defense activities. These records must be available as needed at or in the vicinity of emergency operating centers.

(b) "Rights and interests records" are records essential to the preservation of the legal rights and interests of individual citizens and their Government. These records include such groups as social security records, retirement records, payroll records, insurance records, and valuable research records. These records require protection, but storage points do not have to be at or in the vicinity of emergency operating centers.

§ 101–11.701–5 Program considerations.

(a) Strong management support is required within each department and agency to meet the records needs of emergency preparedness. Sound judgment must be exercised in identifying records essential to an agency's effectiveness during an emergency. Agencies should be aware that during an emergency those who will be using records may not be the same as those who refer to them under normal conditions.

(b) In identifying its vital records, an agency should keep the volume of records at a manageable level, and retrieval procedures should require only routine effort to locate needed information. The program should be simple and concise, avoiding complex and difficult procedures whenever possible.

(c) An agency's vital records protection program should be reviewed on an annual basis. The program may be considered effective if the records selected for inclusion are current, complete, adequately protected, accessible, and immediately usable.

§ 101–11.701–6 Vital records storage at GSA Federal Archives and Records Centers.

(a) The General Services Administration provides for the storage, protection, and servicing of rights and interests vital records. The facilities of all Federal records centers, regardless of geographic location, are available for agencies desiring to store these records. In addition to storage space for paper records, each GSA records center (except the FRC in Mechanicsburg, PA) has environmentally controlled space suitable for the storage of vital records on magnetic tape and photographic film.

(b) Agencies may make arrangements for the transfer of their rights and interests records to any of the records centers by contacting the appropriate center director, NARS Regional Commissioner, or the Office of Federal Records Centers (mailing address: General Services Administration (NC), Washington, DC 20408).

2. Sections 101–11.701–7 through 101–11.701–10 are deleted as follows:

§ 101–11.701–7 [Deleted].

§ 101–11.701–8 [Deleted].

§ 101–11.701–9 [Deleted].

§ 101–11.701–10 [Deleted].

Subpart 101–11.49—Forms and Reports

Sections 101–11.4909, 101–11.4917, and 101–11.4918 are deleted and reserved as follows:

§ 101–11.4909 [Reserved].

§ 101–11.4917 [Reserved].

§ 101–11.4918 [Reserved].

(Sec. 205(c), 63 Stat. 390, (40 U.S.C. 486(c)))

Dated: September 8, 1978.

JAY SOLOMON,
Administrator of General Services.

[FR Doc. 78-26968 Filed 9-25-78; 8:45 a.m.]

[4320–55]

Title 50—Wildlife and Fisheries

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

PART 32—UPLAND GAME HUNTING

Opening of Ouray National Wildlife Refuge, Utah, to Upland Game Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

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

DATES: November 4, 1978, through December 3, 1978, inclusive.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations; upland game hunting; for individual wildlife refuge areas.

Upland game hunting is permitted on the Ouray National Wildlife Refuge, Utah, only on the areas designated by signs as being open to upland game hunting. These areas, comprising 7,500 acres, are delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, 134 Union Boulevard, P.O. Box 25486, Denver, Colo. 80215. Upland game hunting shall be in accordance with all applicable State regulations subject to the following conditions:

1. Pheasants only may be hunted.

The provisions of this special regulation supplement the regulations which govern upland game hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

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

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

SEPTEMBER 12, 1978.

[FR Doc. 78-26997 Filed 9-25-78; 8:45 am]

CHAPTER II—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 611—FOREIGN FISHING

Incremental Apportionment of Total Allowable Level of Foreign Fishing

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Amendment to regulations.

SUMMARY: This document amends the trawl fishery of the Gulf of Alaska preliminary management plan (PMP) by releasing to foreign fishermen a portion of the reserves of certain species. Accordingly, the foreign fishing regulations are amended to increase the total allowable level of foreign fishing (TALFF) for those species.

EFFECTIVE DATE: September 20, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Harry L. Reitze, Regional Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99801, telephone 907-586-7221.

SUPPLEMENTARY INFORMATION: The trawl fishery of the Gulf of Alaska PMP (42 FR 8782), as amended by the supplement to the final environmental impact statement/preliminary management plan, noticed in the FEDERAL REGISTER (42 FR 60945) on November 30, 1977, provided for a distribution of the optimum yield of groundfish species among three categories. The first category was a provision for domestic fishermen based on the best available estimate of the probable U.S. harvest (U.S. capacity). The second category was a reserve established to provide for increased U.S. harvest. The third category was an allocation to foreign fishermen of the surplus remaining after the U.S. capacity and the reserve were subtracted from the optimum yield (OY) for the species. The reserves were to be released to foreign fishermen if the National Marine Fisheries Service (NMFS) determined that domestic fishermen woud not harvest those amounts of those species.

There has been less U.S. fishing effort for groundfish in the Gulf of Alaska in 1978 than had been expected. The NMFS has reestimated U.S. harvest to November 1, 1978, and has concluded that part of the reserve can be released. Consequently, table 11 of the trawl fishery of the Gulf of Alaska PMP which was originally published February 11, 1977 (42 FR 8800), and was amended on November 30, 1977 (42 FR 60945) by creating reserves for groundfish species is further amended. This amendment releases certain of those reserves to increase TALFF's as follows:

Species:	*metric tons*
Pacific cod	8,120
Flounder	6,700
Sablefish	2,200
Squid	300

The Assistant Administrator for Fisheries finds and determines that the Administrative Procedure Act requirements must be waived since delay in implementing this release is unnecessary, impractical, and contrary to the public interest. There is no environmental significance in this action.

Signed at Washington, D.C., this 20th day of September 1978.

WINFRED H. MEIBOHM,
Acting Executive Director, National Marine Fisheries Service.

§ 611.20 [Amended]

Amend 50 CFR 611.20(c) by revising table I as follows:

1. In the fourth column heading revise "Initial TALFF" to read "TALFF as of 9/8/78."
2. In line 16, under Code 002 and 003, "Flounders, including yellowfin sole," strike "17,600," substitute "24,300."
3. In line 21, Code 007, under "Sablefish," strike "8,000," substitute "10,200."
4. In line 15, Code 006, under "Pacific Cod," strike "16,980," substitute "25,100."
5. In line 22, Code 001, under "Squid," strike "1,600," substitute "1,900."

§ 611.92 [Amemded]

Amend 50 CFR 611.92 by revising table I as follows:

1. In column one, bottom line, revise "Initial TALFF" to read "TALFF as of 9/8/78".
2. In species column four, under "Flounders", strike "17,600", substitute "24,300".
3. In species column five, under "Sablefish", strike "8,000", substitute "10.200".
4. In species column seven, under "Pacific Cod", strike "16,980", substitute "25,100".
5. In species column eight, under "Squid", strike "16,00", substitute "1,900".

[FR Doc. 78-26967 Filed 9-25-78; 8:45 am]

[4910-13]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 18313; SFAR No. 37]

PART 91—GENERAL OPERATING AND FLIGHT RULES

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

PART 127—CERTIFICATION AND OPERATIONS OF SCHEDULED AIR CARRIERS WITH HELICOPTERS

PART 135—AIR TAXI OPERATORS AND COMMERCIAL OPERATORS OF SMALL AIRCRAFT

Special Federal Aviation Regulation Number; Carriage of Candidates in Federal Elections

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This special regulation allows persons who are not in the air transportation business to receive limited payments for carriage of candidates in Federal elections without that carriage being considered as a commercial operation. Federal Election Commission (FEC) rules require a candidate to pay for carriage in an aircraft. On the other hand, an aircraft operator must comply with the FAA's commercial operations regulations to receive compensation for a flight. This amendment will harmonize rules of the FAA and FEC consistent with the President's regulatory reform philosophy in Executive Order 12044.

DATES: Effective date: September 26, 1978. Comments by February 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. Raymond E. Ramakis, Regulatory Projects Branch, Safety Regulations Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-755-8716.

SUPPLEMENTAL INFORMATION:

BACKGROUND

Under the rules of the Federal Election Commission (FEC), a candidate in a Federal election must pay for carriage in an aircraft. Ordinarily, under the Federal Aviation regulations where common carriage is not involved, receipt of payment for carriage by an aircraft operator requires an appropriate commercial operator certificate. The FAA has been advised that several instances have occurred in which individuals or corporations operating aircraft have desired to carry a candidate in a Federal election, free of charge, but the candidate would be required to make payment to those aircraft operators in order to comply with the rules of the FEC. Receipt of the payment by an aircraft opertor without an appropriate commercial operator certificate could result in a violation of the Federal Aviation regulations. A situation is, therefore, created in which compliance with the regulations of one agency of the Federal Government results in a violation of the regulations of another agency.

The carriage of candidates in Federal elections is infrequent and the aircraft operator does not intend to engage in the business of an air carrier or commercial operator. The FAA has reviewed this situation and has concluded that it would be in the public interest to allow certain aircraft operators to receive payments required by the Federal Election Commission wihout being required to comply with the rules applicable to operations for compensation or hire. Pursuant to this regulation, the carriage of candidates would be governed by the rules of part 91. However, the regulation would not relieve part 121, 127 or 135 certificate holders of the obligation to comply with the rules under which they are certificated even if a candidate is carried and the payment is limited to the amount required by the FEC rules.

It also would not relieve an operator whose primary business is as an air carrier or commercial operator from complying with parts 121, 127 or 135.

NEED FOR IMMEDIATE ADOPTION

Since this special regulation relieves a restriction, does not impose an additional burden on any person, and is needed to avoid the possibility of aircraft operators' experiencing conflicts between the regulations of the FAA and FEC in the imminent Federal election campaigns of 1978, I find that notice and public procedure are impracticable and contrary to the public interest and that good cause exists for making this amendment effective in less than 30 days. However, the FAA intends to review operating experience under this special regulation. Consequently, interested persons are invited to submit such written data, views, or arguments as they may desire regarding this SFAR. Communications should identify the Docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue SW., Washington, D.C. 20591. All communications received on or before February 1, 1979, will be considered by the Administrator and this SFAR may be changed in the light of the 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.

ADOPTION OF THE AMENDMENT

Accordingly, the following special Federal Aviation regulation is adopted, effective, September 26, 1978:

§ 1 Applicability.

Contrary provisions of parts 91, 121, 127 and 135 of the Federal Aviation regulations notwithstanding, an aircraft operator, other than one operting an aircraft under the rules of part 121, 127 or 135 of this chapter, may receive payment for the carriage of a candidate in a Federal election, an agent of the candidate, or a person traveling on behalf of the candidate, if—

(a) That operator's primary business is not as an air carrier or commericial operator;

(b) The carriage is conducted under the rules of part 91; and

(c) The payment for the carriage is required, and does not exceed the amount required to be paid, by regulations of the Federal Election Commission (11 CFR et seq.).

§ 2 Definitions.

For the purpose of this special Federal Aviation regulation, the terms "candidate" and "election" have the

same meaning as that set forth in the regulations of the Federal Election Commission.

This special Federal Aviation regulation terminates June 30, 1980, unless sooner superseded or rescinded.

(Secs. 313(a), 601, and 604 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1424); and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The FAA has determined that this document is not significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Washington, D.C., on September 22, 1978.

LANGHORNE BOND,
Administrator.

[FR Doc. 78-27199 Filed 9-25-78; 8:45 am]

[6325-01]

Title 45—Public Welfare

CHAPTER VIII—UNITED STATES CIVIL SERVICE COMMISSION

PART 801—VOTING RIGHTS PROGRAM

Appendix A: Alabama

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The State of Alabama is having runoff elections on September 26. The Attorney General has designated an additional county (Russell County) as coming under the provisions of the Voting Rights Act of 1965, as amended. This designation requires Federal observers (under the administrative direction of the U.S. Civil Service Commission) to be on site, at the specified place, to monitor the election. This identifies the location of a new office for the filing of applications or complaints under the Voting Rights Act of 1965, as amended.

EFFECTIVE DATE: September 26, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Charles J. Dullea, Coordinator, Voting Rights Program, U.S. Civil Service Commission, Washington, D.C. 20415, 202-632-4604.

SUPPLEMENTARY INFORMATION: The Attorney General has designated Russell County, Ala., as coming under the provisions of the Voting Rights Act of 1965, as amended.

Accordingly, 45 CFR Part 801, Appendix A, is amended to show an additional place under the heading "Dates, Times, and Places" for filing in Alabama, as follows:

ALABAMA

County; place for filing; beginning date.
* * * * *
Russell; Phoenix City—U.S. Post Office, 1310 Ninth Avenue; September 26, 1978.
* * * * *

(Secs. 7, 9, 79 Stat. 440, 441 (42 U.S.C. 1973e, 1973g).)

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

[FR Doc. 78-27167 Filed 9-25-78; 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.[19]

[6325-01]

CIVIL SERVICE COMMISSION

[5 CFR Part 900]

INTERGOVERNMENTAL PERSONNEL ACT PROGRAMS

Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefitting From Federal Financial Assistance

AGENCY: U.S. Civil Service Commission.

ACTION: Proposed rulemaking.

SUMMARY: These rules are proposed to implement section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, with regard to Federal financial assistance administered by the U.S. Civil Service Commission (USCSC). Section 504 provides that: "No otherwise qualified handicapped individual in the Unites States * * * shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." The rules would apply to all recipients of Federal grant funds from USCSC under the Intergovernmental Personnel Act (IPA), and are intended to insure that their federally assisted programs are operated without discrimination on the basis of nondisqualifying handicap. The proposed rules define and forbid acts of discrimination against qualified handicapped persons in employment and in the operation of programs and activities receiving financial assistance under the IPA. As employers, recipients must make reasonable accommodation to handicapped applicants and employees under any program or activity to which this subpart applies unless the accommodation would cause the employer undue hardship.

DATE: Comments must be received on or before November 27, 1978.

ADDRESS: Comments should be addressed to Bureau of Intergovernmental Personnel Program, 1900 E Street NW., Washington, D.C. 20415, Attention: Allan D. Heuerman, Associate Director for Grants Administration.

FOR FURTHER INFORMATION CONTACT:

Kathleen Hohman at the above address or by telephone at 202-632-6274. Braille copies of the proposed regulations are available by contacting Ms. Hohman.

SUPPLEMENTARY INFORMATION: Under Executive Order 11914 (41 FR 17871, April 29, 1976) HEW (Department of Health, Education, and Welfare) was required to issue general standards for other agencies and departments to follow in writing their regulations to implement section 504. The standards were published at 43 FR 2132, January 13, 1978. Generally, the standards set forth enforcement procedures, standards for determining which persons are handicapped, and guidelines for determining what practicies are discriminatory.

The proposed rule forbids discrimination against qualified handicapped persons in employment and in the operation of programs receiving grant funds from the U.S. Civil Service Commission under the Intergovernmental Personnel Act. Recipients must make reasonable accommodation to the handicaps of employees, unless the accommodations would cause the recipient undue hardship. As providers of services, recipients are required to make programs operated in existing facilities accessible to handicapped persons, and to operate their programs in a nondiscriminatory manner.

It is proposed to add subpart G to part 900 of title 5 of the Code of Federal Regulations as set forth below.

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

PART 900—INTERGOVERNMENTAL PERSONNEL ACT PROGRAMS

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Subpart G—Nondiscrimination on Basis of Handicap in Federally Assisted Programs of the U.S. Civil Service Commission

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AUTHORITY: Secs. 503, 507, Intergovernmental Personnel Act of 1970 (Pub. L. 91-648, 84 Stat. 1909); sec. 504, Rehabilitation Act of 1973, as amended (29 U.S.C. 794).

Subpart G—Nondiscrimination on Basis of Handicap in Federally Assisted Programs of the U.S. Civil Service Commission

§ 900.701 Purpose.

The purpose of this part is to effecutate section 504 of the Rehabilitation Act of 1973, to eliminate discrimination on the basis of handicap in any program or activity receiving Federal financial assistance under the Intergovernmental Personnel Act (IPA).

§ 900.702 Applicability.

This subpart applies to each program or project receiving Federal financial assistance under the IPA from the date this subpart is approved. The duration of the applicability is the period of time for which the assistance is authorized.

§ 900.703 Definitions.

Unless the content requires otherwise, in this subpart:

(a) "Recipient" means any State or its political subdivisions, any instrumentality of a State or its political subdivisions, any public or private agency, institution, organization, or other entity, or any person to which Federal financial assistance is extended directly or through another recipient, including any successor, assignee, or transferee of a recipient, but excluding the ultimate beneficiary of the assistance.

(b) "Federal financial assistance" means a grant of Federal funds authorized by the IPA.

(c) "Facility" means all or any portion of buildings, structures, equipment, roads, walks, parking lots, or other real or personal property or interest in such property.

(d) "Handicapped person" means any person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment.

(1) As used in paragraph (d) of this section, the phrase "physical or mental impairment" means (i) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; cardiovascular; reproductive; digestive;

genitourinary; hemic and lymphatic; skin; and endocrine; or (ii) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, and emotional illness.

(2) "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(3) "Has a record of such impairment" means has a history of, or has been misclassified as having a mental or physical impairment that substantially limits one or more major life activities.

(4) "It is regarded as having an impairment" means (i) has a physical or mental impairment that does not substantially limit major life activities but is treated by a recipient as constituting such a limitation; (ii) has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or (iii) has none of the impairments defined in paragraph (e)(1) of this section but is treated by a recipient as having such an impairment.

§ 900.704 Program consistency with merit principles.

The substance, design, and administration of a program shall assure the fair treatment of any applicants, employees, participnts, or beneficiaries who are affected by the program or project receiving IPA financial assistance without regard to nondisqualifying handicap.

§ 900.705 Discrimination against participants and beneficiaries.

(a) No qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity receiving Federal financial assistance under the IPA.

(b) (1) A recipient, in providing any aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of handicap:

(i) Deny a qualified handicapped person the opportunity to participate in or benefit from the aid, benefit, or service;

(ii) Afford a qualified handicapped person an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others.

(iii) Provide a qualified handicapped person with an aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others;

(iv) Provide different or separate aid, benefits, or services to handicapped persons than is provided to others unless such action is necessary to provide qualified handicapped persons with aid, benefits, or services that are as effective as those provided to others;

(v) Aid or perpetuate discrimination against a qualified handicapped person by providing significant assistance to an agency, organization, or person that discriminates on the basis of handicap in providing any aid, benefit, or service to beneficiaries of the recipient's program;

(vi) Deny a qualified person the opportunity to participate as a member of planning or advisory boards; or

(vii) Otherwise limit a qualified handicapped person in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving aid, benefit, or service.

(2) A recipient may not deny a qualified handicapped person the opportunity to participate in programs or activities that are not separate or different, despite the existence of permissibly separate or different programs or activities.

(3) A recipient may not, directly or through contractual or other arrangements, utilize criteria or methods of administration (i) that have the effect of subjecting qualified handicapped persons to discrimination on the basis of handicap, (ii) that have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of the recipient's program with respect to handicapped persons, or (iii) that perpetuate the discrimination of another recipient if both recipients are subject to common administrative control or are agencies of the same State.

(4) A recipient may not, in determining the site or location of a facility, make selections (i) that have the effect of excluding handicapped persons from, denying them the benefits of, or otherwise subjecting them to discrimination under any program or activity that receives or benefits from Federal financial assistance or (ii) that have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the program or activity with respect to handicapped persons.

(c) The exclusion of nonhandicapped persons from the benefits of a program limited by Federal statute or executive order to handicapped persons or the exclusion of a specific class of handicapped persons from a program limited by Federal statute or executive order to a different class of handicapped persons is not prohibited by this part.

(d) Recipients shall administer programs and activities in the most integrated setting appropriate to the needs of qualified handicapped persons.

(e) Recipients shall take appropriate steps to insure that no handicapped individual is denied the benefits of, excluded participation in, or otherwise subjected to discrimination in any program receiving IPA financial assistance because of the absence of auxiliary aids for individuals with impaired sensory, manual, or speaking skills.

§ 900.706 Program accessibility.

(a) No qualified handicapped person shall, because a recipient's facilities are inaccessible to or unusable by handicapped persons, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity to which this subpart applies.

(b) A recipient shall operate each program or activity so that the program or activity, when viewed in its entirety, is readily accessible to and usable by handicapped persons. This subparagraph does not necessarily require a recipient to make each of its existing facilities or every part of an exising facility accessible to and usable by handicapped persons. Where structural changes are necessary to make programs or activities in existing facilities accessible, such changes shall be made as soon as practicable, but in no event later than 3 years after the effective date of the regulation.

(c) New facilities shall be designed and constructed to be readily accessible to and usable by handicapped persons. Alterations to existing facilities shall, to the maximum extent feasible, be designed and constructed to be readily accessible to and usable by handicapped persons.

§ 900.707 Employment practices.

(a) *General.* (1) No qualified handicapped person shall, on the basis of handicap, be subjected to discrimination in employment under a program or activity supported fully or partially by Federal financial assistance under the IPA.

(2) Nothing in this section shall prohibit an organization from conditioning an offer of employment under any program or activity receiving Federal financial assistance under the IPA on the results of a medical examination conducted prior to the employee's entrance on duty: *Provided*, That: (i) All entering employees are subjected to

such an examination of handicap or when a preemployment medical questionnaire used for positions which do not routinely require medical examination indicates a condition for which further examination is required because of the job-related nature of the condition, and (ii) the results of such an examination are used in accordance with the requirements of this subpart.

(3) A recipient shall make all decisions concerning employment under any program or activity to which this subpart applies in a manner which insures that discrimination on the basis of handicap does not occur and may not limit, segregate, or classify applicants or employees in any way that adversely affects their opportunities or status because of handicap.

(4) The prohibition against discrimination in employment applies to the following activities:

(i) Recruitment, advertising, and the processing of applications for employment;

(ii) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff, and rehiring;

(iii) Rates of pay or any other form of compensation and changes in compensation;

(iv) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;

(v) Leaves of absence, sick leave, or any other leave;

(vi) Fringe benefits available by virtue of employment, whether or not administered by the recipient;

(vii) Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;

(viii) Employer sponsored activities, including social or recreational programs; and

(ix) Any other term, condition, or privilege of employment.

(5) A recipient may not participate in a contractual or other relationship that has the effect of subjecting qualified handicapped applicants or employees to discrimination prohibited by this subpart. The relationships referred to in this paragraph include relationships with employment and referral agencies, with labor unions, with organizations providing or administering fringe benefits to employees of the recipient, and with organizations providing training and apprenticeship programs.

(b) *Reasonable accommodation.* (1) A recipient shall make reasonable accommodation to the known physical or mental limitations of a qualified handicapped applicant or employee under any program or activity receiving Federal financial assistance under the IPA unless the recipient can demonstrate that the accommodation would impose an undue hardship on the operation of its program.

(2) Reasonable accommodation may include, but shall not be limited to: (i) Making facilities readily accessible to and usable by handicapped persons, acquisition or modification of equipment or devices, appropriate adjustment or modification of examinations, the provision of readers and interpreters, and other similar actions.

(3) In determining pursuant to paragraph (b)(1) of this section whether an accommodation would impose an undue hardship on the operation of the recipient in question, factors to be considered include: (i) The overall size of the recipient's program receiving Federal financial assistance under the IPA with respect to the number of employees, number and type of facilities, and size of budget; (ii) the type of operation, including the composition and structure of the work force; and (iii) the nature and the cost of the accommodation.

(c) *Employment criteria.* (1) A recipient involved in activities receiving IPA financial assistance may not make use of any employment test or other selection criterion that screens out or tends to screen out qualified handicapped persons or any class of handicapped persons in any program or activity that receives Federal financial assistance under the IPA unless the test score or other selection criterion, as used by the recipient, is shown to be job-related for the position in question and alternative job-related tests or criteria that do not screen out as many handicapped persons are not available.

(2) A recipient shall select and administer tests concerning employment so as to insure that, when administered under any program or activity that receives Federal financial assistance under the IPA, to an applicant or employee who has a handicap that impairs sensory, manual, or speaking skills, the test results accurately reflect the applicant's employee's ability to perform the duties of the type of position in question rather than reflecting the applicant's or employee's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure).

(d) *Preemployment inquiries.* (1) Except as provided in paragraph (c)(2) of this section, a recipient, when considering an applicant for employment under any program or activity receiving Federal financial assistance under the IPA, may not conduct a preemployment medical examination and may not make preemployment inquiry of an applicant as to whether the applicant is a handicapped persons or as to the nature or severity of a handicap. A recipient may, however, make preemployment inquiry into an applicant's ability, to meet medical qualification requirements with or without reasonable accommodation, of the position in question, i.e., the minimum abilities necessary for safe and efficient performance of the duties of the position in question.

§ 900.708 Certification required.

(a) *General.* Each application for IPA financial assistance, as a condition to its approval and the extension of financial assistance, shall contain or be accompanied by, a certification from the applicant that the program will be conducted in compliance with the requirements of this subpart. The assurance shall obligate the recipient for the period during which the IPA financial assistance is extended to the program.

(b) *Certification from subgrantees.* A certification shall be required of all subgrantees receiving financial assistance under the IPA to the effect that all programs or parts thereof carried out by subgrantees shall be in compliance with the requirements of this subpart. The IPA grant recipient shall be responsible for securing the certification from subgrantees.

(c) *Cerfification from "other organization."* In an application for IPA financial assistance from an other organization, as this term is used in section 304 of the IPA, the certification required by this section shall apply to the admission, membership, and all other practices relating to the treatment of members, unless the applicant establishes, to the satisfaction of the responsible Commission official, that the practices of the organization in no way affect (1) its practices in the program or part of the organization for which IPA financial assistance is sought, or (2) the beneficiaries of or participants in, or persons affected by the program, or (3) employees or applicants for employment in that part of the organization.

§ 900.709 Self-evaluation.

Each recipient that employs 25 or more persons shall, within 1 year of the receipt of IPA grant funds, conduct a self-evaluation of its compliance with this subpart, with the assistance of interested persons, including handicapped persons or organizations representing handicapped persons. Each such recipient shall evaluate its current policies and practices and their effects, and modify any that do not meet the requirements of this part. Each such recipient shall permit the Commission, during normal business hours, to examine its self-evaluation along with its books, records, accounts, facilities and other sources of informa-

tion as may be useful to determine whether there has been compliance with this subpart. Self-evaluation required under other Federal programs may be accepted by the Commission if the information pertaining to activities receiving IPA financial assistance is included and the records are available to Commission representatives.

§ 900.710 Notice and consultation.

(a) Programs and activities receiving IPA financial support shall take appropriate initial and continuing steps to notify participants, beneficiaries, applicants, and employees, including those with impaired vision or hearing, that it does not discriminate on the basis of handicap in violation of section 504 and this subpart.

(b) As appropriate, a recipient shall consult with interested persons, including handicapped persons or organizations representing handicapped persons, in achieving compliance with this subpart.

§ 900.711 Procedure for effecting compliance.

When the Commission determines that a recipient has failed or threatens to fail to comply with this subpart and the noncompliance or threatened noncompliance cannot be corrected by informal means, the Commission may suspend or terminate or refuse to grant or continue IPA financial assistance as provided in §§ 900.204 and 900.205 of subpart B of part 900 of title 5 of the Code of Federal Regulations.

[FR Doc. 78-26865 Filed 9-25-78; 8:45 am]

[4110-03]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Parts 50, 52, 54, 56, 57, and 58]

[Docket No. 78N-0282]

BIORESEARCH MONITORING PROGRAM

Clarification of Part Designations

AGENCY: Food and Drug Administration.

ACTION: Proposal.

SUMMARY: This document is an editorial clarification of the assignment of part numbers for the agency's proposed regulation implementing the bioresearch monitoring program.

FOR FURTHER INFORMATION CONTACT:

John A. Richards, Federal Register Writer (HFC-11), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-2994.

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs has proposed regulations under several new parts of subchapter A of title 21 concerning related aspects of bioresearch monitoring, both before and after completion of the reorganization and republication of that subchapter in the FEDERAL REGISTER of March 22, 1977 (42 FR 15553). In the interest of clarity, the recodified proposed and projected part designations for the bioresearch monitoring program are as follows:

Part heading	Proposal published in the FEDERAL REGISTER
Pt. 50—Protection of Human Subjects.	May 5, 1978 (43 FR 19417).
Pt. 52—Obligations of Sponsors and Monitors of Clinical Investigations.	Sept. 27, 1977 (42 FR 49612).
Pt. 54—Clinical Investigations	Aug. 8, 1978 (43 FR 35210).
Pt. 56—Institutional Review Boards.	Aug. 8, 1978 (43 FR 35186).
Pt. 57—Clincial Laboratories—[Reserved].	
Pt. 58—Good Laboratory Practices for Nonclinical Laboratory Studies.	Nov. 19, 1976 (41 FR 51206) under former Pt. 3e.

The proposed regulations under parts 50, 52, 54, and 56 cross-referenced part 58, which is the part number for the anticipated final rule on good laboratory practices proposed under former part 3e before final recodification of the subchapter. The Commissioner believes that setting forth the currently designated parts for bioresearch monitoring regulations will eliminate a possible source of confusion.

Dated: September 20, 1978.

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

[FR Doc. 78-26948 Filed 9-25-78; 8:45 am]

[4110-03]

[21 CFR Parts 436, 446, and 546]

[Docket No. 78N-0220]

TETRACYCLINE HYDROCHLORIDE TABLETS AND CAPSULES AND OXYTETRACYCLINE HYDROCHLORIDE CAPSULES

Proposed Dissolution Test for Human and Animal Drugs

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: This is a proposal to amend the antibiotic drug reguations to: (1) Require dissolution testing for tetracycline hydrochloride tablets and capsules for human and animal use and require dissolution testing for oxytetracycline hydrochloride capsules for human use, and (2) delete the requirement for disintegration testing for tetracycline hydrochloride tablets. This action is being taken to provide a method by which the bioequivalence of these products can be assured.

DATE: Comments by November 26, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Jerome P. Skelly, Bureau of Drugs (HFD-525), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville Md. 20857, 301-443-4750.

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs is proposing to amend the antibiotic drug regulations to require dissolution testing for tetracycline hydrochloride tablets and capsules for human and animal use and to require dissolution testing for oxytetracycline hydrochloride capsules for human use.

Date available to the Food and Drug Administration (FDA) show that there have been batches of tetracycline hydrochloride tablets and capsules and oxytetracycline hydrochloride capsules that met the requirements of their respective official monographs but were not bioequivalent to a reference product.

TETRACYCLINE HYDROCHLORIDE

In a 1972 study conducted by the School of Pharmacy and Medicine of the State University of New York at Buffalo, three commercial brands of tetracycline hydrochloride 250-mg capsules were used to assess the biological availability of tetracycline products in man (Ref. 1). Both the single and multiple-dose studies demonstrated the biological inequivalence of two of the brands produced by the same manufacturer in comparison to the third brand. Microbiological assays performed on several capsules of each brand showed that the capsules contained the labeled amounts.

In 1974-75, the Virginia Commonwealth University (VCU) College of Pharmacy conducted tetracycline bioavailability studies under an FDA contract (ref. 2). Data from the studies showed two tetracycline hydrochloride products to be bioinequivalent in comparison to the reference product and a third product to be a potential bioavailability problem, i.e., data showed borderline bioavailability in comparision to the reference product.

The VCU studies also made in vivo evaluations of three commercial

brands of tetracycline hydrochloride 250-mg tablets against a commercial brand of a 250-mg reference capsule (ref. 3). One brand of the tablet product was bioinequivalent as compared to the reference capsule, and the lot of this tablet product also had very poor dissolution properties. Two other lots not included in the in vivo study but manufactured by the same firm also had poor dissolution properties. One of these lots was later used at VCU in a multiple dose study to evaluate its bioavailability in comparison to a reference tetracycline hydrochloride capsule (ref. 4). The study showed that the tablet product was bioinequivalent to the reference capsule.

In a 1975 study, three commercially available tetracycline hydrochloride tablets that had passed in vitro batch certification standards were evaluated with regard to their bioavailability in a three-way crossover study. The Potency, moisture content, and disintegration time specifications were within acceptable limits. The bioavailability study, however, demonstrated that one tablet product was bioinequivalent with the other two, being only 26 percent as bioavailable as the other products. The deficient product showed blood levels that were significantly lower at all sampling times than the blood levels seen with the other two products. The dissolution rate of the deficient tablet product was considerably lower than the rate for the other two tablet products (ref. 5).

Oxytetracycline Hydrochloride

As early as 1969, an article was published that reported a study of 16 lots of oxytetracycline hydrochloride 250-mg capsules distributed by 13 different suppliers that demonstrated significant differences in biological availability among these lots (ref. 6). Each of the lots had been certified by FDA. Seven of the lots produced blood levels below 0.6 microgram per milliliter (μg/ml), a level stated by the authors to be the usually accepted minimum therapeutic level. The authors also found that lots with a slow rate of dissolution performed poorly in the bioavailability testing.

In 1970, the FDA conducted a study to determine the bioavailability of oxytetracycline hydrochloride capsules from all 11 manufacturers supplying the U.S. market at that time. The agency used a recently certified lot of the first commercial oxytetracycline hydrochloride product as the reference product (ref. 7). Seven products showed significantly lower serum levels than the reference product at all sampling times; serum levels were approximately 50 percent of those for the reference product.

In bioavailability study conducted under an FDA contract at VCU in 1975, four commercial oxytetracycline hydrochloride products from three manufacturers were compared with another commercial oxytetracycline hydrochloride product (ref. 8). One product had a relative bioavailability of only 45 percent in comparison with the reference product, and the serum levels at most of the sampling times were approximately 50 percent of those for the reference product.

The Dissolution Requirement

On the basis of the above data, the Commissioner is persuaded that current batch certification requirements for the tetracyclines discussed in this document do not always assure equivalency of performance relative to a reference product. Further, the tetracycline hydrochloride tablets shown to be bioinequivalent in the studies cited above had passed the disintegration time test required by the monograph. Dissolution testing of tablets from the same lot, using either the United States Pharmacopeia rotating basket or paddle method at 50 or 75 revolutions per minute (r/min) in water, showed that the tablets dissolved poorly (refs. 3 and 9). Meeting a disintegration time specification thus does not necessarily assure good dissolution performance for the tablet products. The Commissioner believes that tetracycline hydrochloride tablets dissolving 80 percent or better in 60 minutes do not have bioavailability problems.

Although manufacturers of the tetracycline products shown to have been bioinequivalent in the studies cited above have taken corrective action to produce bioequivalent products, the Commissioner has determined that there should be a method to assure the bioequivalence of each batch of these tetracyclines. The FDA recognizes that results of in vitro dissolution testing are a useful and reliable indicator of uniformity in manufacturing a product and that the rate of dissolution does influence the bioavailability of the drug. Therefore, the Commissioner tentatively concludes that a dissolution test method and specifications should be added to the monographs for tetracycline hydrochloride tablets and capsules for human use and oxytetracycline hydrochloride capsules for human use so as to assure their bioequivalence. The Commissioner proposes, therefore, to amend the monographs for these tetracyclines in Part 446 (21 CFR part 446) to establish an in vitro dissolution test method and standard.

Under this proposed regulation, tetracycline hydrochloride tablets and capsules and oxytetracycline hydrochloride capsules would be considered to meet the dissolution test specification if not less than 60 percent of the labeled amount of the antibiotic drug in the tablets or capsules is dissolved in 30 minutes and not less than 85 percent is dissolved in 60 minutes for the average of all tablets or capsules tested, and not less than 70 percent of the labeled amount is dissolved in 60 minutes for each tablet or capsule tested.

These proposed dissolution test specifications are based on data obtained by FDA from dissolution testing of marketed products (Refs. 9 and 10). The proposed in vitro dissolution test for tetracycline hydrochloride 250 mg tablets and capsules has been correlated with human in vivo bioavailability data. Both the U.S.P. rotating basket and the FDA paddle methods were used at different speeds of rotation in various media (deionized water, 0.1N hydrochloric acid, pH 5.6 acetate buffer) in order to arrive at a discriminating dissolution test.

Under these proposed amendments, the disintegration test would be deleted from the monograph for tetracycline hydrochloride tablets. The Commissioner believes that this test is no longer necessary in light of the proposed dissolution test.

The Commissioner is of the view that the requirement for dissolution testing for tetracycline hydrochloride tablets and capsules for human use should also apply to those products for animal use to assure their bioequivalence. The Commissioner therefore proposes to amend the appropriate monographs in Part 546 (21 CFR Part 546) accordingly. Section 546.180a (21 CFR 546.180a), the monograph for tetracycline hydrochloride capsules under Part 546, references the requirements of 21 CFR 446.181e; therefore no amendment to § 546.180a is necessary. Oxytetracycline hydrochloride is not subject to certification when intended for animal use and is thus excluded from consideration in this proposal.

The Commissioner advises that when these requirements are published in the Federal Register as a final regulation, a fee for the dissolution testing of each batch of an antibiotic drug subject to this requirement will be established.

References

Copies of all references cited below are on public display in the office of the Hearing Clerk, Food and Drug Administration.

1. Barr, W. H., L. M. Gerbracht, K. Letcher, M. Plant, and N. Strahl, "Assessment of the Biologic Availability of Tetracycline Products in Man," Clinical Pharmacology and Therapeutics, 13(1):97-108, 1972.

2. Wood, J. H., "Bioavailability Testing of Tetracycline and Oxytetracycline and Its Correlation to In Vitro Tests, Part IB—In Vivo Tests of Tetracycline Hydrochloride," Technical Report under FDA Contract No. 223-74-3153, 1975.

3. Wood, J. H., "Bioavailability Testing of Tetracycline and Oxytetracycline and Its Correlation to In Vitro Tests, Part III—In Vivo Testing of Tetracycline Hydrochloride and In Vitro Correlation," Technical Report under FDA Contract No. 223-74-3153, 1976.

4. Wood, J. H., K. P. Flora, and R. J. Duma, "Tetracycline Another Example of Generic Bioinequivalence," Journal of the American Medical Association, 239(18):1874-1876, 1978.

5. DeSante, K. A., A. R. DiSanto, D. J. Chodos, and R. G. Stoll, "Antibiotic Batch Certification and Bioequivalence," Journal of the American Medical Association, 232(13):1349-1351, 1975.

6. Brice, G. W. and H. F. Hammer, "Therapeutic Nonequivalence of Oxytetracycline Capsules," (letter), Journal of the American Medical Association, 208(7):1189-1190, 1969.

7. Blair, D. C., R. W. Barnes, E. L. Wildner, and W. J. Murray, "Biological Availability of Oxytetracycline HCl Capsules," Journal of the American Medical Association, 215(2):251-254, 1971.

8. Wood, J. H., "Bioavailability Testing of Tetracycline and Oxytetracycline and Its Correlation to In Vitro Tests, Part IA—In Vivo Tests of Oxytetracycline Hydrochloride," Technical Report under FDA Contract No. 223-74-3153, 1975.

9. Dighe, S. V., B. E. Cabana, V. K. Prasad, and J. H. Wood, "In Vitro/In Vivo Correlation of Tetracycline Hydrochloride Tablets and Capsules—Part III Bioequivalence Establishment," speech presented by Shrikant V. Dighe to the APHA Academy of Pharmaceutical Sciences 22d national meeting, May 18, 1977.

10. Shah, V. P., J. P. Hunt, V. K. Prasad, and B. E. Cabana, "In Vitro/In Vivo Correlation of Tetracycline Hydrochloride Capsules—Part II Bioequivalence Specifications," speech presented by Vinod P. Shah to the APHA Academy of Pharmaceutical Sciences 22d national meeting, May 18, 1977.

The Commissioner has determined that this action is not covered by 21 CFR 25.1(b) (1) through (15), and it does not fall within the requirements of 21 CFR 25.1(b)(16) because it could not significantly affect the quality of the human environment. Therefore, neither an environmental impact analysis report nor an environmental impact statement is required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 507, 512(n), 59 Stat. 463, as amended, 82 Stat. 350-351 (21 U.S.C. 357, 360b(n))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Parts 436, 446, and 546, be amended as follows:

SUBCHAPTER D—DRUGS FOR HUMAN USE

PART 436—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

1. In Part 436, by adding new § 436.541 to read as follows:

§ 436.541 Dissolution test.

(a) *Equipment*—(1) *Water bath.* A thermostatically controlled water bath maintained at 37° C±0.5° C.

(2) *Vessel.* A 1-liter, spherical bottom, cylindrical vessel, 16 centimeters high and 10 centimeters inside diameter, which is made of glass or any other inert transparent material. The vessel is flanged at the top to accept a cover that has four holes, one of which is centered; such as Kimble Glass No. 33710 S1[1] or [2], or equivalent.

(3) *Motor.* A motor capable of rotating the blade to within ±5 percent of the specified rate.

(4) *Shaft.* A shaft, 10 millimeters ±1 millimeter in diameter, which extends from the motor through the centered hole in the vessel cover along the cylindrical axis of the vessel and which rotates without perceptible wobble. It is made of metal but may be coated with a suitable fluorocarbon polymer, such as Hanson Research No. 65-700-001 [2] or equivalent.

(5) *Stirring blade.* The stirring blade is made of a fluorocarbon polymer or fluorocarbon polymer-coated metal. It is 4.0 millimeters ±0.5 millimeter thick. It forms a section of a circle having a diameter of 83 millimeters and is marked off by parallel chords of 42 millimeters ±2.0 millimeters and 77 millimeters ±2.0 millimeters. The distance between the two chords is 18 millimeters. The blade is positioned horizontally at the end of the shaft with the 42-millimeter ±2.0-millimeter edge at the bottom. The blade is attached by suitable means to the center of the shaft so that the lower edge of the blade is at or below the bottom edge of the shaft. The blade must be held firmly so that the horizontal position is maintained during the test; such as Sargent S-76637, size B, 3-inch length [2], or [3], or equivalent. A distance of 4.5±0.5 centimeters is maintained between the lower edge of the blade and the lowest inner surface of the vessel during the test.

(b) *Procedure.* For each dosage form listed in the table in this paragraph, select the appropriate dissolution medium, stirring blade rotation rate, and sampling time and proceed as follows: Place 900 milliliters of the appropriate dissolution medium into the vessel which has been immersed in the water bath. Allow the dissolution medium to reach a temperature of 37° C±0.5° C. Place one tablet or capsule into the vessel and rotate at the appropriate stirring blade speed. If the capsule floats, wrap a stainless steel 22-gage wire loosely three to five times around the capsule, to form a coil or helix around the capsule for the full length of the capsule. Withdraw a portion of the dissolution medium at the specified sampling time(s). Filter through a suitable membrance filter [4] with a minimal porosity of 8 microns to separate the solution from the undissolved particles. Determine the amount of drug substance dissolved by performing the assay described in paragraph (c) of this section. Maintain a constant volume of dissolution medium in the vessel throughout the test by replacing that which is removed for sampling purposes, except that the amount removed may be disregarded if the amount removed (other than the last sample) is not more than 10 milliliters.

[1] Available from Owens Illinois, P.O. 230, Vineland, N.J. 08360.

[2] Available from Hanson Research, 19727 Bahama St., P.O. 35, Northridge, Calif. 91324.

[3] Available from Sargent Welch Scientific Co., 35 Stern Ave., Springfield, N.J. 07081.

Dosage form	Dissolution medium	Stirring blade rotation rate (r/m)	Sampling time(s)
Oxytetracycline hydrochloride capsules	De-aerated distilled water	75	30 min and 60 min
Tetracycline hydrochloride capsules	De-aerated distilled water	75	30 min and 60 min
Tetracycline hydrochloride tablets	De-aerated distilled water	75	30 min and 60 min

(c) *Antibiotic drug content*—(1) *Tetracycline hydrochloride*—(i) *Preparation of working standard solution.* Accurately weigh 20 to 30 milligrams of tetracycline hydrochloride working standard into a suitable-sized volumetric flask. Dissolve and dilute to volume with water. Further dilute an accurately measured portion with distilled water to obtain a known concentration of 0.01 to 0.02 milligram of tetracycline hydrochloride per milliliter.

[4] Filter SCWP is suitable. Available from Millipore Corp., Bedford, Mass. 01730.

(ii) *Preparation of sample solutions.* Dilute an accurately measured portion of the sample filtrate prepared as directed in paragraph (b) of this section with sufficient distilled water to obtain a concentration of 0.01 to 0.02 milligram of tetracycline hydrochloride per milliliter (estimated).

(iii) *Procedure.* Using a suitable spectrophotometer and water as the blank, determine the absorbance of each standard and sample solution at the absorbance peak at approximately 276 nanometers. Determine the exact position of the absorption peak for the particular instrument used.

(iv) *Calculation.* Determine the total amount of tetracycline hydrochloride dissolved as follows:

$$\text{Milligrams of drug dissolved} = \frac{\text{Absorbance of sample} \times \text{Concentration of standard in milligrams} \times d \times 900}{\text{Absorbance of standard}}$$

Where:

d = Dilution factor of sample filtrate.

(2) *Oxytetracycline hydrochloride.* Proceed as directed in paragraph (c)(1) of this section except measure the absorbance at the absorption peak at approximately 273 nanometers.

(d) *Evaluation.* The tablets or capsules pass the dissolution test if six tablets or capsules dissolve to the extent specified in the section for the antibiotic product to be tested. The tablets or capsules do not pass the dissolution test if the requirement specified for the individual dosage unit is not met. If the requirements specified for the average of all tablets or capsules are not met, but the requirement specified for the individual dosage unit is met, repeat the test on six additional dosage units. The tablets or capsules pass the dissolution test if all tablets or capsules dissolve to the extent specified in the section for the antibiotic product to be tested.

PART 446—TETRACYCLINE ANTIBIOTIC DRUGS

2. In Part 446:

a. Section 446.167 is amended by revising the last two sentences in paragraph (a)(1), by revising (a)(3)(i)(*b*), and by adding new paragraph (b)(3) to read as follows:

§ 446.167 Oxytetracycline hydrochloride capsules.

(a) * * * (1) * * * The loss on drying is not more than 5.0 percent. The capsules shall dissolve not less than 60 percent of the labeled amount of oxytetracycline in 30 minutes and not less than 85 percent in 60 minutes for an average of all capsules tested and not less than 70 percent of the labeled amount of oxytetracycline in 60 minutes for each capsule. The oxytetracycline hydrochloride used conforms to the standards prescribed by § 446.67(a)(1).

* * * * *

(3) * * *

(i) * * *

(*b*) The batch for potency, loss on drying, and dissolution.

* * * * *

(b) * * *

(3) *Dissolution.* Proceed as directed in § 436.541 of this chapter.

b. Section 446.181d is amended by revising the fourth and fifth sentences in paragraph (a)(1) and by revising paragraphs (a)(3)(i)(*b*) and (b)(3) to read as follows:

§ 446.181d Tetracycline hydrochloride tablets.

(a) * * * (1) * * * Its loss on drying is not more than 3.0 percent. The tablets shall dissolve not less than 60 percent of the labled amount of tetracycline hydrochloride in 30 minutes and not less than 85 percent in 60 minutes for an average of all tablets tested and not less than 70 percent of the labeled amount of tetracycline hydrochloride in 60 minutes for each tablet. * * *

* * * * *

(3) * * *

(i) * * *

(*b*) The batch for potency, loss on drying, dissolution, and 4-epianhydrotetracycline content.

* * * * *

(b) * * *

(3) *Dissolution.* Proceed as directed in § 436.541 of this chapter.

* * * * *

c. Section 446.181e is amended by revising the last two sentences in paragraph (a)(1), by revising paragraph (a)(3)(i)(*b*), and by adding new paragraph (b)(4) to read as follows:

§ 446.181e Tetracycline hydrochloride capsules.

(a) * * *

(1) * * * Its 4-epianhydrotetracycline content is not more than 3.0 percent. The capsules shall dissolve not less than 60 percent of the labeled amount of tetracycline hydrochloride in 30 minutes and not less than 85 percent in 60 minutes for an average of all capsules tested and not less than 70 percent of the labeled amount of tetracycline hydrochloride in 60 minutes for each capsule. The tetracycline hydrochloride used conforms to the standards prescribed by § 446.81(a)(1).

* * * * *

(3) * * *

(i) * * *

(*b*) The batch for potency, loss on drying, 4-epianhydrotetracycline content, and dissolution.

* * * * *

(b) * * *

(4) *Dissolution.* Proceed as directed in § 436.541 of this chapter.

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

PART 546—TETRACYCLINE ANTIBIOTIC DRUGS FOR ANIMAL USE

3. In Part 546, § 546.110d is amended by revising the fourth sentence in paragraph (a)(1), by revising paragraph (a)(5)(ii)(*a*), and by adding new paragraph (b)(4) to read as follows:

§ 546.110d Chlortetracycline hydrochloride tablets.

(a) * * * (1) * * * Chlortetracycline hydrochloride or tetracycline tablets not exceeding 15 millimeters in diameter, or not intended solely for use in preparing solutions shall disintegrate in 1 hour. Tetracycline hydrochloride tablets not exceeding 15 millimeters in diameter or not intended solely for use in preparing solutions shall dissolve not less than 60 percent of the labeled amount of tetracycline hydrochloride in 30 minutes and not less than 85 per-

cent in 60 minutes for an average of all tablets tested and not less than 70 percent of the labeled amount of tetracycline hydrochloride in 60 minutes for each tablet. * * *

* * * * *

(5) * * *
(ii) * * *
(*a*) The batch: Average potency per tablet, average moisture, disintegration time if it is chlortetracycline hydrochloride or tetracycline tablets and dissolution if it is tetracycline hydrochloride tablets.

* * * * *

(b) * * *
(4) *Dissolution.* Proceed as directed in § 436.541 of this chapter.

* * * * *

Interested persons may, on or before November 26, 1978, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Room. 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. Comments shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Dated: September 20, 1978.

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

[FR Doc. 78-26947 Filed 9-25-78; 8:45 am]

[4110-03]

[21 CFR Part 680]

[Docket No. 78N-0235]

ALLERGENIC PRODUCTS

Proposed Criteria for Source Material

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Commissioner of Food and Drugs is proposing to amend the biologics regulations concerning Allergenic Products. These amendments would establish additional criteria for source material to ensure the safety, purity, potency, and effectiveness of the final Allergenic Product.

DATE: Comments by November 26, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Michael L. Hooton, Bureau of Biologics (HFB-620), Food and Drug Administration, Department of Health, Education, and Welfare, 8800 Rockville Pike, Bethesda, Md. 20014, 301-443-1306.

SUPPLEMENTARY INFORMATION: Licensed Allergenic Products are widely used by physicians for the diagnosis and treatment of reactions (allergies) thought to be caused by or associated with allergenic substances (allergens). Source (starting) material used to produce Allergenic Products includes allergens such as molds, feathers, and hairs. It is essential that the source material be suitable for manufacture into final Allergenic Products, most of which are administered by injection.

The use of an Allergenic Product produced from molds that have been contaminated or inadequately identified may result in false positive reactions in the patient or may cause sensitization of the patient to the mold. Accordingly, proposed § 680.1(b)(2)(i) would require that molds used as a source material (1) meet the requirements concerning storage, maintenance, identity, and verification prescribed in § 610.18 (21 CFR 610.18) and (2) conform to the quality and purity requirements prescribed in § 680.(2) (a) and (b) (21 CFR 680.2 (a) and (b)). Proposed § 680.1(b)(2)(ii) would require that molds contain no foreign materials.

Allergenic Products produced from animal origin may also be unsuitable for injection into humans if the source material (feathers, hair, and danders) is prepared from sick animals or animals that have died from undetermined causes. Accordingly, the proposed regulations would require (1) in § 680.1(b)(3)(i) that pets, farm animals, and other domesticated mammals and birds meet the requirements concerning care, quarantine, immunization against tetanus, and reporting of certain diseases that are prescribed in § 600.11(f) (1), (2), (3), and (6) (21 CFR 600.11(f) (1), (2), (3), and (6)) and that animals be in good health at the end of the quarantine period as determined by a licensed veterinerian; (2) in § 680.1(b)(3)(ii) that wild mammals and birds that cannot meet the requirements prescribed in § 600.11(f) may be used as a source of material only when the package label and the package insert of the final Allergenic Product state that it was prepared from animals whose state of health could not be determined; and (3) in § 680.1(b)(3)(iii) that dead animals may be used as source material only if the animals are properly stored so that the allergen will not be adversely affected and if the other applicable requirements concerning animals in § 680.1(b)(3) are met. The proposed regulations also would provide, in § 680.1(b)(3)(iv), that mammals and birds that have been inspected by the U.S. Department of Agriculture and found suitable as food are exempt from the requirements of proposed § 680.1(b)(3) (i) and (ii).

Many licensed Allergenic Products are manufactured from source material that is propagated and prepared at nonlicensed establishments. The licended final product manufacturer has no assurance that the source material has been properly identified, obtained, or processed. Therefore, the Commissioner is proposing to add a new § 680.1(c) to require that manufacturers of the licensed final product establish and maintain a written agreement with each nonlicensed source material supplier that will permit authorized representatives of the Food and Drug Administraton (FDA) to inspect the nonlicensed establishment during reasonable business hours. The Commissioner recognizes that a written agreement and inspection may normally be unnecessary and impractical when the source material is to be obtained under certain circumstances (e.g., house dust from an individual's home) in which inspection will provide no additional assurances of safety. Accordingly, proposed § 680.1(c)(2) would provide exemptions to the agreement and inspection requirements.

The biologics regulations currently require, in § 600.12 (21 CFR 600.12), that records be made concurrently with the performance of each step in the manufacture and distribution of products. Proposed § 680.2(f) would require that a copy of such records be available at the establishment of the licensed manufacturer of the finished product. This record requirement will facilitate a complete and expeditious FDA inspection of the licensed manufacturer of the finished product.

Although numerous substances (e.g., molds, feathers, hair, dander, saliva, insects, venoms, dust, poison ivy, and pollens) are used as source material for manufacture into licensed Allergenic Products, the proposed requirements concerning suitability of source materials in § 680.1(b) (2) and (3) would cover only molds and certain

animals used as allergenic source materials. In the future, as technical knowledge permits, the biologics regulations will be amended to include regulations to govern the propagation or preparation of other specific allergenic sources, such as invertebrate animals, pollens, and foods. The proposed requirements concerning FDA inspection of nonlicensed establishments and recordkeeping in §§ 680.1(c) and 680.2(f) would apply to all licensed allergenic products manufacturers who use any allergenic source material to manufacture a final product.

The Commissioner has carefully considered the environmental effects of the proposed regulation and, because the proposed action will not significantly affect the quality of the human environment, as concluded that an environmental impact statement is not required. A copy of the environmental impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Therefore, under the Public Health Service Act (sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262)) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Part 680 of Subchapter F of Title 21 of the Code of Federal Regulations as follows:

1. In § 680.1 by redesignating the existing text of paragraph (b) as paragraph (b)(1) and adding new paragraphs (b) (2) and (3) and (c), to read as follows:

§ 680.1 Allergenic Products.

* * * * * *

(b) *Source materials*—(1) *Criteria for source material.* * * *

(2) *Molds.* (i) Molds used as source material in the manufacture of an Allergenic Product shall meet the requirements of § 610.18 of this chapter and § 680.2 (a) and (b).

(ii) Molds shall contain no foreign materials.

(3) *Animals*—(i) *Pets, farm animals, and other domesticated mammals and birds.* The provisions of § 600.11(f) (1), (2), (3), and (6) of this chapter shall be applicable to pets, farm animals, and other domesticated mammals and birds, such as canaries, cats, chickens, dogs, guinea pigs, horses, mice, parakeets, and rabbits that are intended as a source material in the manufacture of an Allergenic Product. The determination of good health at the end of the quarantine period shall be made by a licensed veterinarian.

(ii) *Wildlife.* Mammals and birds that are not housed and cared for in animal quarters and cages may be used as a source of material in the manufacture of an Allergenic Product: *Provided,* That in lieu of the requirements prescribed in § 600.11(f) (1), (2), (3), and (6) of this chapter, the package label and the package insert of the final Allergenic Product state that the product was prepared from animals whose health could not be determined.

(iii) *Dead animals.* Dead animals may be used as a source of material in the manufacture of an Allergenic Product: *Provided,* That (1) the carcasses shall be frozen or kept cold until the allergen can be collected, or shall be stored under other acceptable conditions so that the postmortal decomposition processes do not adversely affect the allergen, and (2) pets, farm animals, and other domesticated mammals and birds, when alive, met the requirements prescribed in paragraph (b)(3)(i) of this section, or a final Allergenic Product whose source is wildlife that did not meet the requirements prescribed in paragraph (b)(3)(i) when alive is labeled in compliance with paragraph (b)(3)(ii) of this section.

(iv) *Mammals and birds inspected by the U.S. Department of Agriculture.* Mammals and birds subject to and inspected by the U.S. Department of Agriculture at the time of slaughter and found suitable as food may be used as a source of material, and the requirements of paragraph (b)(3) (i) and (ii) of this section do no apply in such cases. Notwithstanding U.S. Department of Agriculture inspection, the carcasses of such inspected animals shall be frozen or kept cold unitl the allergen can be collected, or shall be stored under other acceptable conditions so that the postmortal decompmsition processes do not adversely affect the allergen.

(c) *Source material from nonlicensed establishments*—(1) *Establishment inspection.* Source materials propagated or prepared in a nonlicensed establishment may be used by a licensed manufacturer for the preparation of a final Allergenic Product: *Provided,* That the licensed manufacturer has entered into and maintains a written agreement with the nonlicensed establishment that the nonlicensed source material supplier will permit authorized representatives of the Food and Drug Administration to inspect its manufacturing procedures, facilities, and records during reasonable business hours. The licensed manufacturer shall notify the Director, Bureau of Biologics, of all source material suppliers with whom a written agreement has been entered into. Such notification shall be made at the time of the written agreement and annually thereafter.

(2) *Exemptions.* Exemptions from the requirements under paragraph (c)(1) of this section shall be made only upon written approval by the Director, Bureau of Biologics.

2. Section 680.2 by adding new paragraph (f) to read as follows:

§ 680.2 Manufacture of Allergenic Products.

* * * * * *

(f) *Records.* A copy of the records of each step in the manufacturing process of each lot of source material intended for manufacture of a final Allergenic Product shall be available at the establishment of the licensed manufacturer of the final product, regardless of the origin of the source material. Such records shall meet the requirements prescribed under § 600.12 of this chapter.

Interested persons may, on or before November 26, 1978, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Dated: September 20, 1978.

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

[FR Doc. 78-26949 Filed 9-25-78; 8:45 am]

[4110-03]

[21 CFR Part 1020]

[Docket No. 75N-0046]

DIAGNOSTIC X-RAY EQUIPMENT

Partial Withdrawal of Advance Notice of Proposed Rulemaking

AGENCY: Food and Drug Administration.

ACTION: Partial Withdrawal of Advance Notice of Proposed Rulemaking.

SUMMARY: The agency is withdrawing parts of an advance notice of proposed rulemaking concerning the diagnostic X-ray performance standard. Information received in response to the document and data developed

since its publication have led the agency to reconsider the need to amend the performance standard for diagnostic X-ray systems and their major components as considered in the document.

EFFECTIVE DATE: September 26, 1978.

FOR FURTHER INFORMATION CONTACT:

Joseph Wang, Bureau of Radiological Health (HFX-460), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3426.

SUPPLEMENTARY INFORMATION: In an advance notice of proposed rulemaking published in the FEDERAL REGISTER of June 19, 1975 (40 FR 25830), the Commissioner of Food and Drugs announced that he was considering amending the performance standard for diagnostic X-ray systems and their major components under §§ 1020.30, 1020.31, and 1020.32 (21 CFR 1020.30, 1020.31, and 1020.32) to add certain requirements for dental X-ray equipment and other requirements for all X-ray equipment. The advance notice of proposed rulemaking was issued in accordance with Food and Drug Administration (FDA) policy of early public disclosure of rulemaking activities, and it was intended to solicit comments from interested persons concerning the amendments under consideration. Data and information collected by Bureau of Radiological Health, coupled with 14 comments from X-ray equipment users and 12 from X-ray equipment manufacturers, have caused the Commissioner to reconsider the proposals discussed in the advance notice of proposed rulemaking. Comments from these interested persons will be addressed later by FEDERL REGISTER notices relating to the continuing issues in the advance proposal. This current document withdraws some of the proposals considered in the advance notice document and informs the public of the current status for those still under consideration.

1. *Dental X-ray equipment*—a. In the June 19, 1975 document, the Commissioner advised that he was considering establishing a limit on the leakage radiation from the diagnostic source assembly at the minimum source-to-skin distance (SSD) for which a dental X-ray machine is used. Because most dental X-ray equipment is used at short SSD's and is frequently installed in confined quarters, the Commissioner believed a leakage limit at the minimum SSD would reduce patient exposure from such radiation. But leakage radiation levels now being found are only a small fraction of that permitted by the current standard. In addition, calculations of X-ray radiation dose to the patient indicate that even if leakage radiation occurred at the permissible limit, unwanted X-ray exposure in the vicinity of the patient is quite low, if high-speed film is used, and would be a small percentage of the useful beam. Further, setting a minimum SSD leakage radiation limit would require measurement of the leakage radiation for dental X-ray equipment at SSD's shorter than the 1 meter specified by the current regulation, § 1020.30(k) (21 CFR 1020.30(k)). This change would require additional test equipment not now available to the manufacturers of diagnostic X-ray systems. The Commissioner is concerned that additional test equipment would lead to increased cost of medical care without demonstrated dose savings and therefore cannot be justified. For these reasons, the Commissioner has determined that no further action will be taken at this time concerning this issue, and he withdraws the proposal.

b. In the June 19, 1975 document, the Commissioner announced consideration of means to reduce patient dose and to improve the quality of dental radiographs by changing requirements for dental X-ray beam quality. Requirements under consideration included specifying minimum peak X-ray tube potential and/or adding specifications on the X-ray spectrum for dental X-ray systems. The agency will continue efforts in this area and will announce its activities in future FEDERAL REGISTER publications under the docket number found in the heading of this document.

c. In the June 19, 1975, document, the Commissioner advised that the Bureau of Radiological Health was evaluating the use of open-ended, shielded, position-indicating devices (PID's) and assessing the effect of such devices on possible X-ray exposure reduction during typical dental X-ray procedures. This evaluation was completed, and a report was submitted to the Commissioner on August 12, 1975 (a copy of this report is on file with the Hearing Clerk (HFA-305), Food and Drug Administration). The report concludes that the long, open-ended, shielded PID could reduce the dose when used with a long-cone, paralleling technique and that its use with such technique is to be encouraged. But when used with the bisecting angle technique, the dose to the patient could be larger than with a pointer cone (closed-ended PID). No additional data are available to the agency to contradict the August 12, 1975, evaluation, and the Commissioner concludes that Federal requirements concerning open-ended PID's are unwarranted at this time. Interested persons who initiated this issue by inquiries to the Bureau of Radiological Health were advised of the Commissioner's conclusions in a letter that was sent to them on January 26, 1978 (copy on file with the Hearing Clerk). This proposal is withdrawn, and FDA is currently contemplating no further action concerning requirements for open-ended PID's.

d. In the June 19, 1975, document, the Commissioner announced consideration of an amendment to the standard to specify location of dental X-ray equipment exposure controls.

The Commissioner believes that a requirement concerning exposure control location may reduce operator exposure by allowing operation of the X-ray equipment from a specified minimum distance from the X-ray source. However, because exposure control location for the most part is determined by independent dealers and varies with the design of each dental suite, the Commissioner believes that this type of requirement can be more appropriately regulated by State radiation control agencies that are responsible for regulation of facility design. Thus, this proposed revision is withdrawn.

2. *All X-ray equipment*—a. In the June 19, 1975, document, the Commissioner announced consideration of the need to amend the general provisions of §§ 1020.30, 1020.31, and 1020.32 to require manufacturers of film-screen combinations to supply information to allow users to match screen emission characteristics with film sensitivity characteristics. As a related matter the Commissioner also considered establishing performance requirements for film cassettes to assure proper film-screen contact.

Under the Medical Device Amendments of 1976 (Pub. L. 94-295) amending the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), all medical devices intended for human use must be classified into one of three regulatory classes (categories) based on the extent of control necessary to assure the safety and effectiveness of each device. The Radiological Device Classification Panel has recommended to the Commissioner that X-ray film be classified as a Class I device. Devices under this category are subject only to general controls and not standards or premarket approval. The Commissioner is withdrawing the proposal and is deferring action concerning film-screem combinations and film cassettes until after a final decision is made on the classification of X-ray film under the Food, Drug, and Cosmetic Act. Further action under authority of the Radiation Control for Health and Safety Act of 1968 (Pub. L. 90-602 (42 U.S.C. 263F)) may be considered in a future FEDERAL REGISTER publication under a separate docket number.

b. Finally, the Commissioner announced in the advance notice that he was considering amending the regulations to require that manufacturers of X-ray tubes specify focal spot size of the tubes and describe the manner in which focal spot size was determined.

The Commissioner recognizes the technical pitfalls associated with the quantification of focal spot size. Besides its size, the actual focal spot of a diagnostic X-ray tube must be also be quantified in terms of the intensity distribution. For most X-ray tubes presently in use, the focal spot intensity distribution is nonuniform, usually having a twin peaked distribution. Its size and intensity distribution can further be affected by changes in voltage and current applied to the X-ray tube. The focal spot often is enlarged as current is increased and voltage is reduced. The Commissioner has determined that because the techniques for the quantification of focal spot size are still in the evolving stage, the issuance of a regulatory standard which specifies a particular method for focal spot determination may not be appropriate at this time. The Radiological Device Classification Panel examined this problem in relation to its review of X-ray tubes and suggested that labeling requirements concerning focal spot size would be useful to the X-ray tube user. The Commissioner agrees that information concerning X-ray tube focal spot size would be of value to the user of the tube, and believes this can be appropriately accomplished through alternative means such as a voluntary standard. Thus, the Commissioner is now withdrawing the proposal for a regulatory standard but advises that this issue may be considered under a separate docket number in a future FEDERAL REGISTER publication.

This notice is issued under the authority of the Public Health Service Act, as amended by the Radiation Control for Health and Safety Act of 1968 (Pub. L. 90-602 (42 U.S.C. 263f)) and under authority delegated to the Commissioner (21 CFR 5.1).

The documents concerning these issues and all related correspondence, except information covered by the confidentiality provisions of section 360A(e) of the Public Health Service Act (42 U.S.C. 263i(e)), have been placed on public display in the Office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857, and may be seen Monday through Friday from 9 a.m. to 4 p.m., except on Federal legal holidays.

Dated: September 20, 1978.

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

[FR Doc. 78-26945 Filed 9-25-78; 8:45 am]

[1505-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI-4437]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Emporia, Lyon County, Kans.

Correction

In FR Doc. 78-24030 appearing at page 38713 in the issue for Wednesday, August 30, 1978, in the table in the second column of page 38714, the entry for "Prairie Drain" should have read as set forth below:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
* * * * *		
Prairie Drain.....	At mouth.....	1,108
	2,400 ft downstream of South Ave.	1,110
	At South Ave.....	1,114
	1,000 ft upstream of Santa Fe Ry.	1,117
	400 ft downstream of Seventh Ave.	1,127
	100 ft downstream of Eighth Ave.	1,129

[4510-43]

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[30 CFR Parts 55, 56, and 57]

METAL AND NONMETAL MINES

Extension of Comment Period

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

ACTION: Extension of time for comments.

SUMMARY: On Tuesday, September 12, 1978 (43 FR 40766-40799), proposed rules were published as part VIII in the FEDERAL REGISTER under section 301(b)(2) of the Federal Mine Safety and Health Amendments Act of 1977. These proposed rules would revoke or revise and make mandatory existing safety and health advisory standards applicable to metal and nonmetal mines. Interested persons were given until October 9, 1978, to submit comments and data. The comment period is extended to October 17, 1978.

DATE: Comments must be received on or before October 17, 1978.

ADDRESS: Comments should be sent to Frank A. White, Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 629, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Va. 22203.

FOR FURTHER INFORMATION CONTACT:

Frank A. White, Room 629, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Va. 22203, 703-235-1910.

SUPPLEMENTARY INFORMATION: The public comment period on the proposed rule is extended until October 17, 1978, because of delays in mailing copies of the proposed regulations to mine operators and other interested persons and organizations, and to provide the public an adequate opportunity to submit any and all comments on these regulations, which are of great importance to the metal and nonmetal mining industries.

The effort made by many persons and organizations to submit written comments by October 9, 1978, is greatly appreciated and they may submit additional comments within the extended time.

Dated: September 21, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 78-27075 Filed 9-22-78; 10:40 am]

[4110-35]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

[42 CFR Part 460]

PROFESSIONAL STANDARDS REVIEW

Redesignation of PSRO Areas in Illinois

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Proposed rule.

SUMMARY: This proposed rule would redesignate PSRO areas in Illinois in order to transfer Madison and Clinton Counties (currently in area VIII), and McDonough County (currently in area V), to area VII. As a result of the proposed redesignations, PSRO area VII will better coincide with the existing boundaries of the local medical review organization.

DATES: Consideration will be given to written comments or suggestions received by November 27, 1978.

ADDRESSES: Address comments to: Steven A. Suard, Room 13A-19, 5600 Fishers Lane, Rockville, Md. 20857. In commenting, please refer to File Code HSQ-51-P. Comments will be available for public inspection beginning approximately 2 weeks after publication, in Room 16A-55 of the Department's offices at 5600 Fishers Lane, Rockville, Md. on Monday through Friday of each week from 8:30 a.m. to 5 p.m., telephone 301-443-3880.

FOR FURTHER INFORMATION, CONTACT:

Steven A. Suard, 301-443-6477.

SUPPLEMENTARY INFORMATION: On March 18, 1974, regulations were published in the FEDERAL REGISTER (39 FR 10204) designating eight PSRO areas within Illinois. The purpose of the present proposal is to redesignate PSRO areas V, VII, and VIII so that three counties, Madison and Clinton (currently in area VIII) and McDonough (currently in area V), are transferred to area VII.

Guidelines for the redesignation of PSRO areas (42 CFR 460.2) provide that we may revise area designations when we determine it is necessary, and that we may consider the existing boundaries of local medical review organizations in our redesignation decisions. The Western Illinois Foundation for Medical Care (the Foundation) is a local medical review organization responsible under the hospital admission and surveillance program (HASP) for review of care provided to medicaid patients. The Foundation's review area currently includes 13 of the 18 counties in area VII as well as the counties of Madison, Clinton, McDonough, and Bond. In order to make the boundaries of area VII more congruent with the Foundation's review area, we propose to transfer the counties of Madison, Clinton, and McDonough to area VII. Bond County will remain in area VIII at the request of the County Medical Society.

The Foundation is ready and willing to enter into an agreement for designation as a PSRO for the redesignated area VII. The redesignation would thus facilitate the implementation of PSRO activity in the only area in Illinois where PSRO review has not yet been initiated.

42 CFR 460.17 is amended by revising areas V, VII, and VIII to read as follows:

§ 460.17 Illinois.

Eight Professional Standards Review Organization areas are designated in Illinois, composed of the following counties:

AREA I

Jo Daviess	Ogle
Stephenson	De Kalb
Winnebago	Whiteside
Boone	Lee
Carroll	

AREA II

McHenry	Kane
Lake	Du Page

AREA III

Cook

AREA IV

Kendall	Grundy
Will	Kankakee

AREA V

Rock Island	Knox
Mercer	Stark
Henry	Marshall
Bureau	Fulton
Putnam	Peoria
La Salle	Tazewell
Henderson	Woodford
Warren	

AREA VI

Livingston	Morgan
Ford	Moultrie
Iroquois	Douglas
McLean	Edgar
De Witt	Shelby
Piatt	Coles
Champaign	Cumberland
Vermilion	Clark

AREA VII

Adams	Morgan
Schuyler	Sangamon
Brown	Christian
Cass	Calhoun
Mason	Greene
Menard	Jersey
Logan	Macoupin
Pike	Montgomery
Scott	Hancock
Clinton	McDonough
Madison	

AREA VIII

Bond	Richland
Fayette	Williamson
Effingham	Saline
Jasper	Gallatin
Crawford	Union
Randolph	Johnson
Perry	Lawrence
Franklin	Washington
Hamilton	Jefferson
White	Wayne
Jackson	Edwards
Monroe	Wabash
St. Clair	Pope
Marion	Hardin
Clay	Alexander
	Pulaski
	Massac

(Secs. 1102, 1152, Social Security Act, (42 U.S.C. 1302 and 1320c-1))

Dated: August 17, 1978

WILLIAM D. FULLERTON,
Acting Administrator, Health Care Financing Administration.

Approved: September 19, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc. 78-26975 Filed 9-25-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 83]

[Gen. Docket No. 78-290; FCC 78-629]

IMPLEMENTING CHANGES IN THE TECHNICAL REGULATIONS ANNEXED TO THE AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND CANADA FOR PROMOTION OF SAFETY ON THE GREAT LAKES BY MEANS OF RADIO, 1973

Proposed Rulemaking

AGENCY: Federal Communications Commission.

ACTION: Proposed rulemaking.

SUMMARY: We are proposing to change certain technical radio requirements for vessels operating on the Great Lakes. This action was requested by the Canadian Department of Transportation. We expect that these changes will rectify present problems in administering the agreement between the United States and Canada concerning the use of radio by vessels operating on the Great Lakes.

DATES: Comments must be received on or before October 27, 1978, and reply comments must be received on or before November 6, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Nicholas G. Bagnato, Safety and Special Radio Services Bureau, 202-632-7197.

SUPPLEMENTARY INFORMATION:

Adopted: September 11, 1978.

Released: September 20, 1978.

In the matter of amendment of part 83 of the rules to implement changes in the technical regulations annexed to the Agreement Between the United States of America and Canada for Promotion of Safety on the Great Lakes by Means of Radio, 1973, Gen. Docket No. 78-290.

1. Notice of proposed rulemaking in above-captioned matter is hereby given.

2. In the report and order in docket 20273, released May 1, 1975, and published in the FEDERAL REGISTER on May 6, 1975 (40 FR 19646), the Commission adopted rules implementing the mandatory VHF radiotelephone requirements as set forth in the Agreement Between the United States of America and Canada for Promotion of

Safety on the Great Lakes by Means of Radio, 1973 (GLA).

3. Article XVIII of the GLA describes the procedures to be followed in amending the technical regulations annexed to the agreement. It provides for the amendment to be effected by an exchange of diplomatic notes between the contracting governments and such amendments shall enter into force on the first day of February of the year following the exchange of notes. We are currently in the process of working out several amendments to the technical regulations with Canada. It is anticipated that these changes will be agreed to by both countries this year and hence February 1, 1979, will be the effective date. In view of the limited time available, this notice of proposed rulemaking is being issued while the GLA amendment process is still active. Is is not anticipated that there will be any significant changes to the proposal contained herein when final agreement on the amendments to the GLA is reached.

4. The general substance of the rule amendments in the appendix is as follows:

a. Add a requirement that all ships over 38 meters (124 feet) in length be equipped with a second VHF installation which fully complies with the rules;

b. The required frequencies are amended to allow the ship to install the necessary ship movement frequencies for its area of operation;

c. Regulation 15 (bis) (c), chapter IV of the Safety Convention establishes a 10-watt FR carrier power minimum power requirement applicable to foreign ships. We believe that this 10-watt minimum requirement is reasonable and propose to make it applicable to U.S. ships; and

d. Amend the definition of the Great Lakes to relect the connecting and tributary waters contained in the new regulation 8.

5. The proposed amendments, as set forth below, are issued pursuant to the authority contained in the Agreement Between the United States of America and Canada for Promotion of Safety on the Great Lakes by Means of Radio, 1973, and in sections 4(i) and 303 (c), (e), and (r) of the Communications Act of 1934, as amended.

6. Pursuant to the applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before October 27, 1978, and reply comments on or before November 6, 1978. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision in the proceeding, the commission may also take into account other relevant information before it, in addition to the specific comments invited by this notice.

7. In accordance with the provisions of § 1.419 of the Commission's rules, an original and five copies of all statements, briefs, or comments shall be furnished the Commission. All comments received in response to this notice of proposed rulemaking, will be available for public inspection in the Docket Reference Room in the Commission's offices in Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

Part 83 of chapter I of title 47 of the Code of Federal Regulations is amended to read as follows:

1. The introductory portion of § 83.536 which precedes paragraph (a) is amended to define applicable waters of the Great Lakes and paragraphs (a) and (b) are amended to reflect the lengths in meters as follows:

§ 83.536 Applicability to vessels.

The Agreement Between the United States of America and Canada for Promotion of Safety on the Great Lakes by Means of Radio, 1973, applies to vessels of all countries when navigated on the Great Lakes. The Great Lakes agreement defines the Great Lakes as "all waters of Lakes Ontario, Erie, Huron (including Georgian Bay), Michigan, Superior, their connecting and tributary waters and the River St. Lawrence as far east as the lower exit of the St. Lambert Lock at Montreal in the Province of Quebec, Canada, but shall not include such of the connecting and tributary waters as may be specified in the technical regulations." The technical regulations do not include any connecting and tributary waters except the St. Mary's River, the St. Clair River, Lake St. Clair, the Detroit River, and the Welland Canal. A vessel to which the Great Lakes agreement applies and which falls into the specific categories by paragraph (a), (b), or (c) of this section and not excepted by paragraph (d) or (e) of this section shall comply with this subpart while navigated on the Great Lakes.

(a) Every vessel of 20 meters (65 feet) or over in length (measured from end to end over the deck, exclusive of sheer).

(b) Every vessel engaged in towing another towing vessel or floating object, except:

(1) Where the maximum length of the towing vessel, measured from end to end over the deck exclusive of sheer, is less than 8 meters (26 feet) and the length or breadth of the tow, exclusive of the towing line is less than 20 meters (65 feet);

(2) Where the vessel towed complies with this subpart;

(3) Where the towing vessel and tow are located within a booming ground (an area in which logs are confined); or

(4) Where the tow has been undertaken in an emergency and neither the towing vessel nor the tow can comply with this part.

* * * * *

2. Section 83.539 is amended by amending paragraph (a), adding a new paragraph (b), amending existing paragraph (b) and redesignating as (c), and redesignating existing paragraph (c) as (d) to read as follows:

§ 83.539 Radiotelephone installation.

(a) Each vessel of the United States of less than 38 meters (124 feet) registered length while subject to the requirements of the Great Lakes radio agreement shall be fitted with a radiotelephone in effective operating condition meeting the provisions of this subpart in addition to the provisions of such other rules in this part, governing ship stations using telephony, as are applicable.

(b) Each vessel of the United States of 38 meters (124 feet) or more while subject to the requirements of the Great Lakes radio agreement shall be fitted with two VHF radiotelephone installations in effective operating condition meeting the provisions of this subpart in addition to the provisions of such other rules in this part, governing ship stations using telephony, as are applicable. The second VHF installation shall be electrically separate from the first VHF installation, however, both may be connected to the main source of energy provided one installation can be operated from a separate source of energy located as high as practicable on the vessel.

(c) The term "radiotelephone installation," for the purpose of the Great Lakes agreement, means a ship radio station (including the source of power necessary to energize the apparatus) capable of transmitting and receiving speech on at least the following VHF channels:

Channel 16—156.8 MHz—Distress, safety, and calling.

Channel 6—156.3 MHz—Primary intership.

Those of the following vessel traffic service channels appropriate to the vessel area of operation: Channel 11—156.55 MHz, channel 12—156.60 MHz, channel 13—156.65 MHz, or channel 14—156.7 MHz.

One public correspondence frequency appropriate to the area of operation.

One channel for receiving marine navigational warnings for the area of operation.

Such other frequencies as are required for their service. Nothing contained in this paragraph shall be construed to

require or prohibit the availability of other frequencies for use by the same "radiotelephone installation" for communication authorized by this part on other frequencies.

(d) * * *

3. Section 83.542(b) is amended to reduce the minimum power requirement as follows:

§ 83.542 Radiotelephone transmitter.

* * * * *

(b) The transmitter shall be of a type which has been demonstrated in the process of type acceptance as being capable of delivering a carrier power of at least 10 watts, but not more than 25 watts, on each of the frequencies 156.8 MHz and 156.3 MHz into 50 ohms effective resistance, when operated with its applied primary supply voltage. The transmitter shall be capable of readily reducing the carrier power to 1 watt or less.

* * * * *

[FR Doc. 78-26919 Filed 9-25-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[49 CFR Chapter X]

[Ex Parte No. MC-116]

CONSIDERATION OF RATES IN OPERATING RIGHTS APPLICATION PROCEEDINGS (GENERAL POLICY STATEMENT)

Withdrawal of Proposed Rulemaking

AGENCY: Interstate Commerce Commission.

ACTION: Withdrawal of proposed rulemaking.

SUMMARY: The Commission published a notice of proposed rulemaking on February 24, 1978, in this proceeding (43 FR 7675). Upon consideration of the comments received, the Commission has decided not to promulgate specific regulations. Rather, the Commission has issued a proposed general policy statement setting forth guidelines for the consideration of rates in operating rights application proceedings (43 FR 42097, September 19, 1978). The public is invited to comment on the proposed policy statement.

ADDRESSES: Comments should be filed with the Office of Proceedings, Room 5342, Interstate Commerce Commission, Washington, D.C. 20423.

DATES: Comments must be received by October 19, 1978.

FOR FURTHER INFORMATION CONTACT:

Janice M. Rosenak or Harvey Gobetz, 202-275-7693.

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

[FR Doc. 78-27061 Filed 9-25-78; 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.

[3410-37]

DEPARTMENT OF AGRICULTURE

Food Safety and Quality Service

HUMANELY SLAUGHTERED LIVESTOCK

Identification of Carcasses; List of Establishments

Pursuant to section 4 of the Act of August 27, 1958 (7 U.S.C. 1904), and the statement of policy thereunder in 9 CFR 391.1, the following table lists the establishments operating under Federal inspection pursuant to the Federal Meat Inspection Act, as amended (21 U.S.C. 601 et seq.), which have been officially reported as using humane methods of slaughter and incidental handling of the species of livestock respectively designated for such establishments in the table. Additions to and deletions from this list will be made from time to time as the facts may warrant by notices published in the FEDERAL REGISTER. The establishment number given with the name of the establishment is branded on each carcass of livestock inspected and passed at that establishment. The table should not be understood to indicate that all species of livestock slaughtered at a listed establishment are slaughtered and handled by humane methods unless all such species are listed for that establishment in the table, nor should the table be understood to indicate that the affiliates of any listed establishment use only humane methods.

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
ARMOUR & CO	2AT					*	
ARMOUR & CO	2CC	*					
ARMOUR & CO	2H					*	
ARMOUR & CO	2SD					*	
ARMOUR & CO	2W					*	
ARMOUR & CO	2WN	*				*	
SWIFT & CO	3AE					*	
SWIFT & CO	3BW	*	*	*	*		
SWIFT FRESH MEATS CO	3C	*				*	
SWIFT & CO	3CN			*	*		
SWIFT FRESH MEATS CO	3D	*					
SWIFT & CO	3G	*					
SWIFT FRESH MEATS CO	3GI	*					
SWIFT & CO	3GW					*	
SWIFT & CO	3H	*				*	
SWIFT & CO	3L					*	
SWIFT & CO	3N	*				*	
SWIFT & CO	3S					*	
SWIFT & CO	3Y	*					
SWIFT & CO	3Z	*					
LYKES BROS INC	8	*	*				
LYKES BROS INC	8B	*	*				
PAULY PACKING CO INC	10	*	*				
FRENCH CITY MEATS INC	11	*	*			*	
HYGRADE FOOD PRODUCTS CORPORATION	12A					*	
HYGRADE FOOD PRODUCTS CORPORATION	12FW	*	*				
HYGRADE FOOD PRODUCTS CORPORATION	12P	*					
JOHN MORRELL AND CO	17A	*				*	
JOHN MORRELL & CO	17U	*		*		*	
JOHN MORRELL & CO	17E					*	
JOHN MORRELL & CO	17U	*					
C FINKBEINER INC	18	*				*	
WILSON FOODS CORPORATION	20H					*	
WILSON FOODS CORPORATION	20I	*				*	
WILSON FOODS CORPORATION	20L	*				*	
WILSON FOODS CORPORATION	20MO					*	
WILSON FOODS CORPORATION	20Q	*	*			*	
WILSON FOODS CORPORATION	20Y	*	*	*		*	
PATRICK CUDAHY INC	28					*	
KREINBERG AND KRASNY INC	30	*					
SUPERIOR BRAND MEATS INC	31	*				*	
THE ROEGELEIN CO	32					*	
VALLEYDALE PACKERS INC	34	*	*			*	
KENTON PACKING CO	36	*	*			*	
TOP-LINE PACKING CO	37	*	*			*	
SUNNYLAND FOODS INC	43					*	
BROOKS COUNTY PACKING CO INC	43B					*	
IDAHO MEAT PACKERS	46	*		*			
DUGDALE PACKING CO	53	*				*	
INSEL & INSEL	54				*		
SUNNYLAND PACKING CO OF ALABAMA	56	*					
SUNNYLAND PACKING CO OF ALABAMA	56A					*	
GLOVER PACKING CO	60A	*				*	
GOOCH PACKING CO INC	61	*	*		*	*	
SUNFLOWER BEEF PACKERS INC	62	*					
SANDUSKY DRESSED BEEF CO	63	*					
BARC MEAT PROCESSING PLANT	68	*	*	*		*	
AUBURN UNIVERSITY MEAT LABORATORY	71	*		*		*	
COUNTRY MEATS INC	72	*				*	
BROWN THOMPSON & SON	73					*	
GLASGOW PACKING CO	76	*					
DINNER BELL FOODS INC	79A					*	
DINNER BELL FOODS INC	79B	*				*	
DINNER BELL FOODS INC	79C					*	
CUDAHY CO	81					*	
EDGAR PACKING CO INC	84			*			
MBPXL CORPORATION	86	*					
MBPXL CORPORATION	86D	*					

NAME OF ESTABLISHMENT	EST. NO.		CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
MBPXL CORPORATION	86E		*					
MBPXL CORPORATION	86H		*					
UTICA VEAL CO INC	88		*					
KAHN'S & CO	89		*	*			*	
PEET PACKING CO	90						*	
LAREDO PACKING CO INC	91		*					
SUGARDALE FOODS INC	92		*				*	
LANE PACKING INC	93		*	*	*		*	
THE VAL DECKER PACKING CO	95		*				*	
CENTRAL PACKING CO INC	96		*	*				
A KOCH'S SONS INC	98		*	*				
ARMOUR & CO	100		*		*			
LIBERTY PACKING CO	101		*	*				
WILSON FOODS CORPORATION	111		*		*		*	
M & R PACKING CO	113	E					*	
M & R PACKING CO	113W	E					*	
FARMLAND FOODS INC	114		*					
THE MERCHANTS CO	116		*	*			*	
JOHN MORRELL & CO	126		*					
CASH BROTHERS PACKING	127		*	*	*	*	*	
JOHN ROTH AND SON INC	130		*					
FERRARA MEAT CO INC	134		*	*				
NEBRASKA BEEF PACKERS INC	135		*					
KLUENER PACKING CO	142		*	*				
R B RICE COMPANY OF MISSOURI INC	144		*				*	
OLLIE WELCH MEAT CO INC	153		*	*				
DALLAS CITY PACKING INC	156		*	*				
CORNLAND DRESSED BEEF CO	157		*					
GREAT PLAINS BEEF CO	158		*					
CORNELL UNIVERSITY ANIMAL SCIENCE	165		*	*	*		*	
BROWN PACKING CO	167				*			
E W KNEIP INC	169		*					
BUB DAVIS PACKING INC	171				*		*	
ARMOUR AND CO	177		*					
THE AMERICAN MEAT PACKING CORPORATION	180						*	
THE RATH PACKING CO	186						*	
CARL'S SAUSAGE CO	188						*	
SEATTLE PACKING CO	191						*	
HYNES PACKING CO	197		*	*	*			
UNITED PACKING CO	198		*		*			
GEORGE A HORMEL & CO	199		*				*	
GEORGE A HORMEL & CO	199A		*		*			
GEORGE A HORMEL & CO	199D						*	
GEORGE A HORMEL & CO	199H		*					
GEORGE A HORMEL & CO	199I						*	
GEORGE A HORMEL & CO	199N		*				*	
GEORGE A HORMEL & CO	199O						*	
CAVINESS PACKING CO INC	200		*					
DUGDALE PACKING CO	203		*					
EMGE PACKING CO INC	205		*				*	
NATIONAL BEEF PACKING CO	208A		*					
PENN PACKING CO	212						*	
E W KNEIP INC	213		*					
MARSHALL MEAT PRODUCTS	215		*					
LINCOLN MEAT CO INC	217		*					
YORK PACKING CO INC	220						*	
ITT GRAINEY INC	221A						*	
DE JONG PACKING CO	223		*	*				
HYGRADE FOOD PRODUCTS CORPORATION	224		*				*	
HYGRADE FOOD PRODUCTS CORPORATION	224B		*	*				
INDEPENDENCE MEAT CO	226		*	*			*	
GOLD MERIT BEEF PROCESSORS INC	232		*	*				
JOHN MORRELL & CO	234		*					
TEXAS TECHNOLOGICAL UNIV MEAT LAB	236		*		*		*	
SIOUX-PAC OF IOWA INC	237		*					
SHREVEPORT PACKING CO INC OF KANSAS	239		*					
LUBBOCK BEEF PROCESSORS INC	239R		*					
P D AND J MEATS	240		*	*	*			

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
GREENWOOD PACKING PLANT	242	*				*	
IOWA BEEF PROCESSORS INC	245	*					
IOWA BEEF PROCESSORS INC	245A	*					
IOWA BEEF PROCESSORS INC	245B	*					
IOWA BEEF PROCESSORS INC	245C	*					
IOWA BEEF PROCESSORS INC	245D	*					
IOWA BEEF PROCESSORS INC	245E	*					
COLUMBIA FOODS DIV IOWA BEEF PROCESSORS INC	245G	*					
JOHN MORRELL & CO	246	*				*	
FEDERAL PACKING CO INC	249	*	*				
MAGIC VALLEY PACKING CO	258	*					
GEM PACKING CO INC	259	*	*				
HYPLAINS DRESSED BEEF INC	262	*					
JONES DAIRY FARM	263					*	
FARM PAC KITCHENS INC	266	*		*		*	
GOLDEN VALLEY PACKING CO	271	*					
TOG PACKING CO INC	273	*					
ALPHA BETA ACME MARKETS INC	279	*	*	*			
PARNETT PACKING CORPORATION	283	*					
SOLANO MEAT CO	285	*	*	*			
FLAVORLAND INDUSTRIES INC	288	*					
ARBOGAST & BASTIAN INC	289					*	
SAN JOSE MEAT CO INC	291	*	*				
ARMOUR & CO	292					*	
IOWA BEEF PROCESSORS INC	292A	*					
GUS JUENGLING AND SON INC	298	*	*				
PACIFIC BY-PRODUCTS INC	302	*					
UNION PACKING CO	305	*	*				
SERV U MEAT PACKING CO	306	*					
A GEMMEN & SONS INC	308	*	*			*	
KAUFMAN MEATS	310	*	*				
RUDYS FARM CO	315					*	
ESTES PACKING CO	319	*	*			*	
STADLER PACKING CO INC	320	*				*	
PIERCE PACKING	322	*	*	*	*	*	
RUDNICK PACKING CO INC	325	*		*			
GOLDEN STATE FOODS CORPORATION	327	*		*	*	*	
C & M MEAT PACKING CORPORATION	329	*	*				
ROYAL PACKING CO	331A	*					
SHAPIRO PACKING CO INC	332	*					
GREAT WESTERN PACKING CO INC	334	*					
NOBLE'S MEAT CO	335	*	*				
DAIRY VALLEY MEAT INC	336	*	*				
SAM KANE BEEF PROCESSORS INC	337	*	*				
GREEN & OLIVER SAUSAGE CO	338					*	
MIDLAND EMPIRE PACKING CO INC	339	*					
BOOKEY PACKING CO	340	*					
PUCKETT PACKING CO	343	*				*	
GOLD-PAK MEAT CO INC	344	*	*				
ANZA MEAT PACKING CO	345	*					
UNION PACKING CO OF OMAHA	351	*					
FRESNO MEAT PACKING CO	354	*	*				
HERNANDO PACKING CO	355	*	*				
SUNSTAR FOODS	357	*					
CLOUGHERTY PACKING CO	360					*	
MYER BEEF INC	363	*					
FARGO BEEF INDUSTRIES	364	*					
KERSEY MEAT PROCESSING CO	366	*		*		*	
WILSON FOODS CORPORATION	374	*				*	
CROSS BROS MEAT PACKERS INC	376	*		*			
SALINAS MEAT CO	378	*	*	*		*	
EMGE PACKING CO INC	380	*				*	
SMITHFIELD PACKING CO INC	382	*				*	
AMERICAN STORES PACKING CO	384	*					
FREEDMAN PACKING INC	387	*	*				
DUGDALE PACKING CO	390	*					
OLDHAM'S FARM SAUSAGE CO INC	392					*	
HUISKEN MEAT CENTER	394	*	*	*		*	

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
DUBUQUE PACKING CO	396	(*)	(*)	(*)		(*)	
DUBUQUE PACKING CO	396C	(*)					
DUBUQUE PACKING CO	396D	(*)					
DUBUQUE PACKING CO	396E	(*)				(*)	
DUBUQUE PACKING CO	396H	(*)					
WATSONVILLE DRESSED BEEF INC	398	(*)					
LOS BANOS ABATTOIR	400	(*)	(*)				
OAKRIDGE SMOKEHOUSE	401	(*)	(*)	(*)		(*)	
OWENS COUNTRY SAUSAGE INC	403					(*)	
WILLISTON PACKING CO INC	405	(*)					
NEUHOFF BROS	406	(*)	(*)				
GREEN BAY DRESSED BEEF INC	410	(*)					
ALPINE PACKING CO	412	(*)	(*)				
THE LUNDY PACKING CO	413					(*)	
THE LUNDY PACKING CO	413A					(*)	
MURRAY PACKING CO INC	421	(*)					
E W KNEIP INC	422	(*)					
THE COLLINS PACKING CO	423					(*)	
KENOSHA BEEF INTERNATIONAL LTD	425	(*)					
FINEBERG PACKING CO	428	(*)	(*)	(*)	(*)	(*)	
SCHNEIDER PACKING CO	439	(*)					
GERBER PRODUCTS CO.	440	(*)					
OMAHA DRESSED BEEF CO INC	441	(*)					
OMAHA DRESSED BEEF CO INC	441A	(*)	(*)				
DEL CURTO MEAT CO	445	(*)	(*)	(*)	(*)	(*)	
THE DICILLO CORPORATION	448	(*)	(*)				
ECONOMY PACKING HOUSE	451	(*)	(*)				
DEWITT PACKING CORPORATION	456	(*)	(*)				
MORRIS RIFKIN & SONS INC	460	(*)					
PIONEER BONELESS BEEF INC	461	(*)					
LANCASTER PACKING CO	462	(*)	(*)				
LITVAK PACKING CO	465	(*)					
BECWAR PACKING CO	467	(*)	(*)			(*)	
CORNHUSKER PACKING CO	468	(*)					
SIOUXLAND BEEF PROCESSING CO	476	(*)					
ARMOUR & CO	477	(*)					
GOTHAM PROVISION CO INC	481	(*)	(*)				
ST CROIX ABATTOIR	482	(*)	(*)	(*)	(*)	(*)	
ROBEL BEEF PACKERS INC	485	(*)					
EAST TENNESSEE PACKING CO	487	(*)				(*)	
BURING FOOD GROUP INC	488	(*)				(*)	
E W KNEIP INC	489	(*)					
WARD FOODS INC	490	(*)	(*)	(*)	(*)		
FAIRBANK FARMS INC	492	(*)	(*)			(*)	
QUALITY HOUSE PROVISIONS INC	494	(*)	(*)				
ROBERTS MEAT PACKING CORP	495					(*)	
VIENNA SAUSAGE MANUFACTURING CO	496	(*)					
BARTELL'S MEAT CO	497	(*)	(*)	(*)			
PELLA PACKING CO INC	498	(*)					
BANEY MEATS	501	(*)	(*)	(*)		(*)	
STUTZMAN SLAUGHTERHOUSE	507	(*)	(*)	(*)	(*)	(*)	
SHEN VALLEY MEAT PACKERS INC	511	(*)				(*)	
SNIDER BROS INC	512	(*)	(*)				
CAPITOL PACKING CO	513	(*)					
SHOEMAKER & ROSS MEATS INC	518	(*)			(*)		
PORK PACKERS INTERNATIONAL INC	520					(*)	
OKLAHOMA STATE UNIV MEAT LABORATORY	526	(*)	(*)	(*)		(*)	
RANCHO FEEDING CORPORATION	527	(*)	(*)			(*)	
ARMOUR & CO	528	(*)	(*)				
SMALLWOOD PACKING CO INC	529	(*)					
MARYSVILLE MEAT PACKING CO INC	533	(*)	(*)			(*)	
PEPPER PACKING CO	536	(*)					
OSCAR MAYER & CO INC	537A	(*)				(*)	
OSCAR MAYER & CO INC	537B					(*)	
OSCAR MAYER & CO INC	537C					(*)	
OSCAR MAYER & CO INC	537E					(*)	
MIDWEST PACKING CO INC	538	(*)					
GOEHRING MEAT PRODUCTS CORPORATION	548	(*)	(*)	(*)		(*)	

NAME OF ESTABLISHMENT		EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
CASCADE MEAT PACKING CO		550	*		*	*	*	
BLACK HILLS PACKING CO		554	*					
MID SOUTH PACKERS INC		557	*				*	
D & W PACKING CO		560	*		*		*	
UNITED DRESSED BEEF CO INC		561	*		*		*	
PACKERLAND PACKING CO INC		562	*					
PECK MEAT PACKING CORPORATION		567	*					
ELMER BENDER & SON INC		569			*	*		
PERRETTA PACKING CO INC		571	*				*	
COIL PACKING INC		575	*					
ARMOUR AND CO		579	*				*	
BEAVERCREEK MEAT CO INC		580	*				*	
MONARCH PACKING CO		581	*		*			
COFFEYVILLE PACKING CO INC		583	*					
FREDERICK & HERRUD INC		586					*	
DAWSON-BAKER PACKING CO INC		588	*					
ELK GROVE MEAT CO		601	*					
SAN ANTONIO PACKING CO		602	*		*	*	*	
SAN ANTONIO PACKING CO		602A	*		*	*	*	
COPPER STATE PHOENIX MEAT CO		604	*		*			
WILSON FOODS CORPORATION		606					*	
WESTERN MEATS		608	*		*	*	*	
EASTERN OREGON MEAT CO INC		611	*		*		*	
PALAMERA BEEF CORP		613	*					
DONNER PACKING CO INC		614	*					
KUMMER MEAT CO INC		617	*		*		*	
DOSKOCIL SAUSAGE INC		623					*	
BIG FOOT PACKING CO INC		627	*		*			
E A MILLER & SONS PACKING CO INC		628	*		*			
H H KEIM CO		630	*		*			
EBNER BROS PACKERS		633	*					
CARTERET ABATTOIR INC		639	*		*	*	*	
FLANERY MEATS INC		643	*					
ERNST BUTCHERING SERVICE		645	*		*		*	
TRANSCONTINENT PACKING CO	E	646						*
BIRD PROVISION CO		647					*	
SCHLUDERBERG-KURDLE CO INC		649	*				*	
JOHN MORRELL & CO		650					*	
WILSON FOODS CORPORATION		655	*		*	*		
BAUMS BOLOGNA INC		657	*					
QUALITY MEAT PACKING CO		661	*					
COLORADO WEST PACKERS INC		662	*		*		*	
GLOBE PACKING CO		663	*					
WEBER FARMS INC		665					*	
FLANERY FOODS INC		667	*					
UNION PACKING CO INC		673	*					
S & S PACKING CO INC		674	*				*	
CAVINESS PACKING CO INC		675	*					
TRES AMIGO'S MEAT CO		676	*		*			
CALDWELL PACKING CO INC		683	*					
CENTRAL FALLS PROVISION CO		686	*					
CALLAWAY PACKING CO		688	*					
PIERCE PACKING CO		691					*	
KANSAS STATE UNIV ANIMAL SCIENCE & INDUSTRY		694	*		*		*	
GULF PACKING CO		696	*					
TRIOLO BROTHERS		706					*	
CENTRAL NEBRASKA PACKING INC	E	713						*
DAVENPORT PACKING CO INC		716	*					
FARMLAND FOODS INC		717					*	
FARMLAND FOODS INC		717A					*	
FARMLAND FARMS INC		717CR					*	
A DARLINGTON STRODE		718					*	
DECKER & SON		727					*	
ROUDE PACKING CO INC		729	*					
OHIO PACKING CO		736	*		*		*	
PARNELLS PACKING CO		738	*		*		*	
THE JACOB SCHLACHTER'S SON & CO		739	*		*			
THE O K PACKING CO		749	*		*			

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
JACK'S MEAT PACKING PLANT	754	(*)	(*)	(*)		(*)	
SEITZ FOODS INC	756A	(*)					
THE AMERICAN MEAT PACKING CORPORATION	760					(*)	
SCHAAKE PACKING CO INC	761	(*)					
KARLER PACKING CO	767	(*)					
SHERIDAN MEAT CO INC	768	(*)	(*)	(*)		(*)	
EARL C GIBBS INC	770	(*)					
HANFORD MEAT PACKING CO	773	(*)	(*)				
BRISTOL FOODS INC	775	(*)					
CENTRAL PACKING CO	777	(*)				(*)	
THE CUDAHY PACKING CO	779	(*)	(*)	(*)		(*)	
BRYAN FOODS INC	780	(*)	(*)			(*)	
DIAMOND MEAT CO INC	783	(*)					
GRANITE STATE PACKING CO	785	(*)	(*)	(*)			
AURORA PACKING CO INC	788	(*)					
HATFIELD PACKING CO	791					(*)	
BAUM'S MEAT PACKING INC	792	(*)	(*)				
HURON DRESSED BEEF	798	(*)					
AMERICAN BEEF PACKERS INC	807	(*)					
THE G ERHARDT SONS INC	810	(*)	(*)				
S & R BEEF CO	811	(*)	(*)				
FLOYD VALLEY PACKING CO	812					(*)	
ROCHESTER INDEPENDENT PACKER INC	817	(*)					
J H ROUTH PACKING CO	818					(*)	
STRAUB & SMITH PACKING CORPORATION	820	(*)	(*)	(*)	(*)	(*)	
STERLING COLORADO BEEF CO	823	(*)					
FOREMOST PACKING CO	824	(*)				(*)	
SUPERIOR PACKING CO INC	825				(*)		
LOOKOUT MOUNTAIN PACKERS INC	826	(*)			(*)		
BERCHENS MEAT CO	830	(*)					
DELTA MEAT PACKING CO INC	834	(*)	(*)				
LEE-JOHNSON INC	835	(*)				(*)	
FREDERICK COUNTY PRODUCTS INC	838	(*)	(*)	(*)			
VALLEYDALE PACKERS INC	840	(*)				(*)	
G BARTUSCH PACKING CO	843	(*)					
ARENA DRESSED BEEF CO	853	(*)					
FLAVORLAND INDUSTRIES INC	857D	(*)					
JORDAN MEAT & LIVESTOCK CO INC	858	(*)	(*)	(*)	(*)	(*)	
FRESNO BEEF PROCESSORS INC	862	(*)	(*)				
TENNESSEE DRESSED BEEF CO	865	(*)					
HARDY & CO INC	869	(*)	(*)			(*)	
IMPERIAL BEST MEATS	87J	(*)	(*)				
PAHLER PACKING CORPORATION	880	(*)					
REM PACKING CO	882	(*)					
SWANTON PACKING INC	883	(*)					
ALCO PACKING CO INC	885	(*)	(*)	(*)	(*)	(*)	
WALTER H LYONS INC	886	(*)	(*)				
HAMILTON PACKING CO	891	(*)	(*)	(*)		(*)	
SAMBOL PACKING CO	892	(*)					
TOBIN PACKING CO INC	893					(*)	
VERNON CALHOUN PACKING CO	897	(*)	(*)				
SIGMAN MEAT CO INC	901B					(*)	
PARTY PACKING CORPORATION	902	(*)					
LIBERTY MEAT PACKING CORPORATION	910	(*)					
CHIAPETTI PACKING CO	916					(*)	
B CONSTANTINO & SONS CO	918	(*)					
ALICE PACKING CO	921	(*)					
VALLEYDALE PACKERS INC	922	(*)	(*)			(*)	
SCHMALTZ MEATS	926	(*)				(*)	
TARPOFF PACKING CO	931	(*)					
PARSONS BEEF CO INC	932	(*)	(*)				
E B MANNING AND SON	934	(*)					
VOLZ PACKING CO	938	(*)					
GENTNER PACKING CO INC	941	(*)					
WHITEHALL PACKING CO INC	946	(*)					
HEILMAN FOOD INDUSTRIES INC	946B	(*)					
M BRIZER & CO INC	948	(*)			(*)		
JOE DOCTORMAN & SON PACKING CO INC	949	(*)	(*)	(*)		(*)	

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
KENNEDYS SAUSAGE CO	950					(*)	
BOB EVANS FARMS INC	952	(*)				(*)	
GREATER OMAHA PACKING CO INC	960	(*)					
POTTER SAUSAGE PRODUCT INC	961	(*)				(*)	
VIRGINIA PACKING CO INC	963	(*)	(*)				
T L LAY PACKING CO	967	(*)				(*)	
MONFORT PACKING CO	969	(*)					
HAWAII MEAT CO LTD	970	(*)					
LONGHORN MEAT PACKERS INC	976	(*)					
BANNER BEEF CO	985	(*)					
J F O'NEILL PACKING CO	987	(*)					
KLARER OF KENTUCKY INC	995					(*)	
THE HOME PRIDE PROVISIONS INC	1029	(*)	(*)	(*)	(*)		
ARMOUR & CO	1085	(*)	(*)				
LANDY PACKING CO	1171	(*)					
A F HOYER & SON	1311	(*)	(*)				
MCCABE PACKING PLANT	1312	(*)	(*)				
BEEF NEBRASKA INC	1318	(*)					
SEVIER VALLEY MEATS INC	1420	(*)		(*)		(*)	
LA BRIER MEAT PROCESSING CO	1463	(*)	(*)	(*)	(*)	(*)	
ASSOCIATED MEAT PACKERS INC	1472	(*)	(*)			(*)	
STEVENS MEAT CO INC	1485	(*)	(*)				
OSMOND LOCKERS INC	1507	(*)				(*)	
OMAHA PORKERS INC	1526					(*)	
HENDERSON MEAT PROCESSORS	1527	(*)				(*)	
CABLE LINE MEATS INC	1589	(*)	(*)	(*)	(*)	(*)	
KAPOWSIN MEAT PACKERS	1626	(*)				(*)	
ABBYLAND PROCESSING INC	1633	(*)	(*)			(*)	
KAH & CO INC	1664	(*)	(*)	(*)		(*)	
DOUBLE J MEAT CO	1669	(*)	(*)	(*)		(*)	
HOUSE OF MEATS	1685	(*)				(*)	
K L & H MEATS INC	1713	(*)				(*)	
JAMES SAUSAGE CO	1718					(*)	
DE KALB COUNTRY PACKING INC	1737		(*)	(*)	(*)		
HOLSTEIN PROCESSING INC	1738	(*)				(*)	
R-BEEF OF IOWA INC	1739	(*)				(*)	
RAWHIDE RANCH BAVARIAN MEAT	1741	(*)	(*)	(*)		(*)	
ROBERT L RUNTZ INC	1750	(*)	(*)				
B & B MEAT PACKING	1765	(*)				(*)	
LITTLE RIVER PACKING	1771	(*)	(*)	(*)	(*)	(*)	
PINE CITY FROZEN FOODS INC	1772	(*)	(*)	(*)	(*)	(*)	
GOLDEN WEST MEAT CO INC E	1796						(*)
B C DRESSED BEEF INC	1803	(*)					
ROCK DELL MEATS & PROCESSING	1894	(*)		(*)			
MINDEN BEEF CO	1914M	(*)					
PACKERLAND PACKING CO OF CHIPPEWA FALLS INC	2032	(*)					
CROCKETT PACKING CO	2033	(*)	(*)				
IOWA STATE UNIVERSITY MEAT LABORATORY	2049	(*)	(*)	(*)		(*)	
MR BEEF PACKING	2061	(*)	(*)			(*)	
ABBEY PACKING CO	2080	(*)	(*)			(*)	
MIDWAY MEATS DIV COUNTRY PRIDE INC	2081		(*)			(*)	
BRAUNFELS MEATS INC	2083	(*)	(*)	(*)		(*)	
ODOM SAUSAGE CO OF KENTUCKY INC	2094					(*)	
ALEWELS INC	2101	(*)	(*)	(*)	(*)	(*)	
HONEY BEEF HOUSE	2104	(*)	(*)				
P & H PACKING CO	2211	(*)	(*)				
HANDY PACKING CO	2215	(*)	(*)	(*)	(*)	(*)	
YOAKUM PACKING CO	2216	(*)				(*)	
CLARK PACKING CO	2219	(*)	(*)	(*)	(*)	(*)	
BURLISON PACKING CO	2224	(*)					
PACE PACKING CO	2228	(*)	(*)			(*)	
RIDLEY PACKING CO	2229	(*)	(*)				
SOUTH TEXAS PACKERS INC	2230	(*)					
AMERICAN MEAT PACKERS INC	2232	(*)				(*)	
GEORGE BRAUN PACKING CO INC	2239	(*)	(*)	(*)	(*)		
BRYAN SAUSAGE CO	2249					(*)	
SS CHAROLAIS MEAT	2252	(*)					
LOVELAND PACKING INC	2259	(*)				(*)	

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
G & C PACKING CO	2262	*	*				
RIDLEY PACKING CO	2265	*	*			*	
L A FREY & SONS INC	2266A	*				*	
BRIGHT MEAT PACKING CO INC	2269	*	*			*	
CENTENO MEAT COMMISSARY	2271	*					
LAMESA MEAT CO	2272	*		*		*	
AMARILLO PACKING CO	2273	*					
HUSBAND BROTHERS PACKING CO	2284	*	*				
BEN GRANTHAM MEAT PACKERS	2290	*	*			*	
DANKWORTH PACKING CO INC	2296	*				*	
BARKER ENTERPRISES INC	2315	*	*	*		*	
FRUITLAND PACKING CO INC	2316	*	*		*	*	
HEIGHTS MEAT CENTER	2319	*	*	*	*	*	
COMANCHE MEATS INC	2329	*	*			*	
MINCO MEAT CO	2330	*	*	*	*	*	
CORNETT PACKING CO	2333	*	*	*		*	
FLYING SPUR MEAT CO	2344	*				*	
LARON MEAT SERVICE	2356	*				*	
AMANA SOCIETY	2357	*					
WM J RAHE & SONS INC	2358	*		*	*	*	
THIES PACKING CO INC	2367	*				*	
GROTE MEAT CO	2369	*	*	*		*	
CANADIAN VALLEY MEAT CO	2370	*	*				
CLAYTON PACKING CO	2373			*			
SMIT & SON PACKING CO	2376	*				*	
SPENCER FOODS INC	2379	*					
ERNIE'S SUPERMARKETS CORP	2380	*	*			*	
MARTIN SAUSAGE CO	2365					*	
MARSHALL PACKING CO INC	2386	*				*	
CLINTON PACKING CO	2387					*	
MOTT PACKING CO	2394	*	*	*	*	*	
UNITED MEAT CO INC	2396	*					
PONY EXPRESS RANCH	2398	*	*	*		*	
P H CUSTOM MEATS INC	2401	*	*	*	*	*	
NACKER PACKING CO INC	2425	*					
HILLSHIRE FARM CO	2435					*	
RANCHLAND PACK INC	2439	*	*	*		*	
STRAUSS BROTHERS PACKING CO INC	2444			*			
H. RICHBERG & SON	2447	*	*				
JOHN R DAILY INC	2450	*	*			*	
CIMPL PACKING CO	2460	*					
LINK BROS INC	2472	*	*	*	*	*	
WENNING PACKING CO INC	2533	*					
NEW GLARUS FOODS INC	2585	*	*	*		*	
WEYHAUPT BROS PACKING CO	2594	*				*	
BARTLOW BROS INC	2595	*				*	
TEETERS PACKING CO	2598					*	
DUQUOIN PACKING CO	2599	*				*	
MCDONALD MEATS	2603	*	*			*	
FOUTCH PACKING CO	2604	*				*	
BUNDY BROTHERS MEATS PROCESSING	2611	*				*	
J W TREUTH & SON INC	2612	*					
MANASSAS FROZEN FOODS	2621					*	
MANASSAS FROZEN FOODS	2621A	*	*			*	
LOOMIS PACKING CO	2636	*				*	
CURTIS PACKING CO	2642	*	*	*		*	
H P BEALE & SONS INC	2682					*	
FARMBOY MEATS	2698	*				*	
YODERS LOCKER PLANT	2699	*		*		*	
VERMONT PACKING CO INC	2712	*	*	*	*	*	
V K MITMAN MEATS	2739	*	*			*	
E G COUNTRY BUTCHERS	2751	*	*	*	*	*	
WAGNER PROVISIONS CO INC	2770	*	*			*	
GEORGE BROWN	2794	*	*	*		*	
STOEVEN BROTHERS	2800	*	*	*			
TOBLER'S MEATS	2814	*	*	*	*	*	
BLUE MOUNTAIN MEATS	2825	*	*	*		*	
LEWIS & MCDERMOTT	2847	*					

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
BASIN PACKING CO	2850	*	*	*		*	
VISTA MEAT PACKING CO INC	2854	*	*	*			
GRANITE MEAT & LIVESTOCK CO	2856	*	*				
TOP OF INDIANA BEEF CO INC	2906	*					
ARMBRUST MEATS	2912	*	*			*	
JENNIE-O FOODS INC	2916	*					
MADISON FOOD INC	2923					*	
MARYVILLE PACKING CO	2927	*	*	*	*	*	
PETTIS COUNTY LOCKER SYSTEM	2929	*	*	*	*	*	
RUNYON FROZEN FOOD SERVICE	2932	*				*	
STAR PACKING CO INC	2934	*					
WINTER'S MEAT PROCESSING	2936	*	*	*	*	*	
WOODS LOCKER & ABATTOIR	2938	*		*	*	*	
YONTZ PACKING CO	2939	*					
WEST PLAINS PACKING CO	2944	*				*	
WEST SLAUGHTER HOUSE	2945	*				*	
P & H MEATS INC	2946	*	*	*	*	*	
PEMISCOT PACKING CO	2948	*				*	
BUTT'S PACKING	2950	*	*	*		*	
CROUCH'S LOCKER & PROCESSING	2951	*	*	*	*	*	
NADLER'S MEATS INC	2956	*	*	*	*	*	
MAXWELL'S LOCKERS	2959	*				*	
WELLINGTON QUALITY MEATS INC	2960	*	*	*		*	
MAC DYE PACKING CO	2962	*	*	*	*	*	
BOLIVAR LOCKER PLANT	2964	*	*	*	*	*	
FRANCIS PACKING CO	2965	*					
SWISS PROCESSING PLANT	2969	*	*	*	*	*	
SLAGLE MEAT MARKET INC	2970	*	*	*	*	*	
MURPHY SLAUGHTERHOUSE	2972	*				*	
SINGER LOCKER SERVICE	2975	*	*	*		*	
DELALOYE & SONS MEAT PACKING INC	2977	*			*		
RINEHART'S MEAT PROCESSING INC	2978					*	
MIRABILE MEAT PROCESS	2982	*					
DAVIS MEAT PROCESSING	2984	*	*	*	*	*	
DIGGS PACKING CO	2985	*				*	
OZARK PACKING CO	2986A	*	*	*	*	*	
HIGHLANDVILLE PACKING CO	2987	*	*	*	*	*	
GLEN'S CUSTOM BUTCHERING	2989	*	*	*	*	*	
FOUR QUARTER SLAUGHTERING	2990	*		*		*	
HERROD PACKING CO INC	2991	*					
HOLDEN LOCKER PLANT	2993	*	*	*	*	*	
DIAMOND MEAT CO INC	2994	*	*	*		*	
COUNTRY BUTCHER SHOP	2995	*		*	*	*	
COUNTRY BUTCHER SHOP	2995A	*	*	*	*	*	
COUNTRY BUTCHER SHOP	2995B	*	*	*	*	*	
MILEY & LAWSON MEAT PROCESSING	2997	*	*			*	
MISSOURI STATE PENITENTIARY FOR MEN	2998	*				*	
GEHMAN'S QUALITY MEATS	4014	*	*	*	*	*	
DIETRICH'S COUNTRY MEATS	4022	*	*	*		*	
HOFFER'S LIGONIER VALLEY PACKING	4025	*	*	*	*	*	
HOST ACRES FARMS QUALITY MEATS	4034	*	*	*		*	
WAYNE H HOFFMAN & SON	4040	*	*	*		*	
CLARENCE H CRAMER	4043	*	*			*	
STAWICKI PROVISION	4045	*	*	*	*	*	
FARMLAND MEATS	4049	*	*	*		*	
LEE PACKING CO	4055	*				*	
THE DEVEREUX FOUNDATION FARM	4065	*	*	*		*	
BOWMAN'S MEAT PROCESSING INC	4073	*	*			*	
C & C PACKING CO INC E	4094						*
JOHN A ROOK	4095	*		*		*	
MIDVALE PACKING CO	4133	*	*				
TALONE PACKING CO	4152	*	*				
UPLAND PACKING CO	4165	*	*				
GREEN'S QUALITY MEAT SERVICE	4202	*	*	*	*	*	
TINY'S MEAT	4206	*		*		*	
VALLEY MEATS INC	4213	*				*	
HAWARDEN OF IOWA INC	4216	*					
SPRINGFIELD QUALITY BEEF INC	4220	*	*				

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
LIBERTY PACKING CORP	E 4241						(*)
PULVERMACHER INC MEAT PROCESSING	4244	(*)	(*)	(*)		(*)	
WEBSTER CITY CUSTOM MEATS INC	4246	(*)			(*)	(*)	
JOE PAGLIUSO & BROS INC	4253	(*)	(*)				
SCHREIBER SON'S MARKET INC	4254	(*)				(*)	
POOK'S WHOLESALE MEATS INC	4263	(*)	(*)		(*)	(*)	
STATE UNIV OF NEW YORK AGRI & TECH COLLEGE	4266	(*)		(*)	(*)	(*)	
JIM SIMON'S MEATS	4285	(*)	(*)	(*)	(*)		
DEL SONNO'S CUSTOM MEATS INC	4330	(*)	(*)	(*)		(*)	
ALPHONSO CUOMO	4342	(*)	(*)			(*)	
S & J SLAUGHTERHOUSE	4346	(*)					
F K & SON INC	4353	(*)					
KLINCK BROS INC	4354	(*)					
DONALD H CLOY	4355	(*)	(*)				
BERNACKI BROS	4358	(*)	(*)				
SMITH PACKING CO	4371	(*)				(*)	
CARLSON BROTHERS MEATS INC	4372	(*)				(*)	
J M BOSTWICK AND SONS INC	4373	(*)					
ROBERT & RONALD VAN CAMP	4374	(*)	(*)	(*)			
SIPPERLY BROS INC	4388	(*)					
NESSLE BROTHERS MEATS	4389	(*)	(*)				
WALLKILL CORRECTIONAL FACILITY	4416	(*)					
KARL'S SLAUGHTERHOUSE	4418	(*)				(*)	
FIORENTINO BROS MEAT PROCESSORS	4419	(*)					
L & C MEATS CO	4421	(*)					
LEWIS A IVES	4422	(*)	(*)	(*)			
LOFFT'S MARKET	4423	(*)	(*)	(*)		(*)	
HERBERT M ZIFF INC	4424	(*)	(*)				
SHAPPEE'S MEAT PLANT	4426	(*)	(*)		(*)		
P BRENNAN INC	4429	(*)			(*)	(*)	
WILLIAM G MEAT PACKING CO	4431	(*)	(*)		(*)		
GREEN HAVEN CORRECTIONAL FACILITY	4463	(*)					
FRANK BROTHERS FARM INC	4464	(*)			(*)	(*)	
NOWER CUSTOM SLAUGHTERING	4468	(*)	(*)				
KAMERY'S WHOLESALE MEATS	4470	(*)	(*)	(*)	(*)	(*)	
FREDERICK BOND	4471	(*)	(*)				
PACKER'S WHOLESALE MEATS	4473	(*)					
GREENVILLE PACKING CORPORATION	4474	(*)					
LUTZ PACKERS INC	4475	(*)	(*)			(*)	
BRICCETTI'S BEDFORD MARKET	4476	(*)	(*)				
JOSEF MEILLER'S SLAUGHTERHOUSE INC	4477	(*)	(*)			(*)	
CROGHAN MEAT MARKET INC	4480	(*)					
F J LEWIS	4482	(*)	(*)	(*)			
HOKAN'S SLAUGHTERHOUSE	4483	(*)	(*)				
STEINER PACKING CO INC	4486	(*)	(*)	(*)	(*)	(*)	
VICTORIA POLYNIAK	4488	(*)				(*)	
STEIGER'S SLAUGHTER HOUSE	4489	(*)	(*)	(*)		(*)	
ORLEANS MEAT PROCESSING CO	4490	(*)	(*)	(*)	(*)		
PAT ROBUSTON INC	4491	(*)					
DILLION'S SLAUGHTER HOUSE	4492	(*)	(*)				
E D BEADLES SLAUGHTER HOUSE	4493	(*)					
TRI-TOWN CORPORATION	4499	(*)	(*)	(*)		(*)	
RADEL'S MEAT MARKET	4517	(*)				(*)	
CUDLIN'S MARKET	4528	(*)	(*)	(*)		(*)	
CLIFFORD H SCHRADER	4529	(*)					
JOHN BRITT	4530	(*)					
STATE UNIV OF NEW YORK AT ALFRED AGRI & TECH	4531	(*)	(*)	(*)			
OWASCO MEAT CO	4532	(*)				(*)	
MAPLE GROVE FARMS	4533	(*)	(*)				
GORHAM PACKING CORPORATION	4534	(*)	(*)			(*)	
TEAR'S MARKET	4535	(*)	(*)	(*)	(*)	(*)	
SOUTH DAYTON MEAT MARKET	4540	(*)					
MANWARING'S CUSTOM PROCESSING	4541	(*)	(*)	(*)	(*)	(*)	
LAZY FARMS INC	4542	(*)	(*)				
THE HILLSDALE PACKING CO INC	4546	(*)	(*)				
GREENBRIER FOODS INC	4593	(*)			(*)		
MULLEN'S SLAUGHTERHOUSE	4623	(*)	(*)				
FORD BROS WHOLESALE MEATS INC	4625	(*)	(*)				

NAME OF ESTABLISHMENT	EST. NO.		CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
MILFORD MEAT P[illegible]ER	4633		(*)	(*)			(*)	
HARSAW PACKING [illegible]	4638		(*)					
RITE WAY MEAT PROCESSING INC	4662		(*)	(*)	(*)		(*)	
STRANDBURG'S WHOLESALE MEATS	4666		(*)	(*)		(*)	(*)	
SUFFOLK COUNTY FARM CURE	4675		(*)				(*)	
KENNEDY MEAT MARKET	4677		(*)	(*)			(*)	
HOBART'S KEEKI [illegible] SERVICE	4679		(*)	(*)		(*)		
POTTER PACKING CO INC	4689		(*)				(*)	
LILLIES WHOLE[illegible] MEATS	4697		(*)	(*)				
FRANK DEBARTIN & SON & SONS	4707		(*)					
SOUTHINGTON PA[illegible] CO	4708		(*)	(*)	(*)	(*)	(*)	
DAN BROOK PACK[illegible] CO	4709		(*)	(*)	(*)		(*)	
MAURICE'S COUNTRY MEAT MARKET	4714		(*)	(*)	(*)	(*)		
LECCE PACKING [illegible]	4715		(*)	(*)	(*)	(*)	(*)	
E & J FARMS	4716		(*)	(*)	(*)	(*)	(*)	
UNIV OF CONNECTICUT MEAT LABORATORY	4717		(*)	(*)	(*)		(*)	
DON J LYNCH PACKING HOUSE	4727		(*)	(*)		(*)		
MATTICE'S SLAU[illegible]TERHOUSE	4728		(*)	(*)	(*)	(*)		
ESSEX AGRICULT[illegible] & TECHNICAL INSTITUTE	4751		(*)	(*)	(*)		(*)	
WARRINGTON FARM	4752		(*)	(*)			(*)	
K & R MEAT SHOP	4763		(*)		(*)		(*)	
MARSTELLER'S F[illegible]M MEATS	4776		(*)	(*)				
ROBERT E RILEY	4788		(*)	(*)				
RUSSELL MEAT PACKING INC	4789		(*)	(*)			(*)	
ROSE VALLEY FA[illegible]	4791		(*)	(*)	(*)		(*)	
CURRY COUNTY PACKERS INC	4802		(*)	(*)	(*)	(*)	(*)	
JOEY PAUL DBA [illegible]NTAIN PROCESSORS INC	4804		(*)	(*)	(*)		(*)	
DON HERD'S BIG [illegible]ELK PACKING CO	4805		(*)	(*)	(*)		(*)	
GREAT WESTERN [illegible]AT CO	4816	E						(*)
CATTLEMAN'S [illegible] BEEF & PORK OUTLET	4819		(*)	(*)			(*)	
CALIFORNIA ST[illegible] POLY SAN LUIS OBISPO	4869		(*)		(*)		(*)	
CALIFORNIA STATE POLYTECHNIC UNIV POMONA	4902		(*)	(*)	(*)		(*)	
KLAPP'S COUNTRY MARKET & PACKING HOUSE	4903		(*)	(*)	(*)	(*)	(*)	
RICKERT MEAT C[illegible]	4982		(*)	(*)	(*)		(*)	
SELECTED MEAT PACKERS INC	5109		(*)				(*)	
DOUBLE A MEAT PACKING CO	5162		(*)	(*)	(*)	(*)	(*)	
ANTHONY PARRILLA INC	5193		(*)	(*)	(*)	(*)	(*)	
RALPH PACKING CO INC	5228		(*)	(*)				
JOHNSTON DRESSED BEEF & VEAL CO INC	5300		(*)	(*)	(*)	(*)		
HAYES PACKING CORPORATION	5301		(*)	(*)				
GEO WALDENMAIER & SONS	5327				(*)	(*)		
A ARENA & SONS INC	5346		(*)					
S MARESCA & SONS INC	5416		(*)	(*)	(*)	(*)		
SALEM PACKING CO	5425		(*)	(*)	(*)		(*)	
BRINGHURST BROS INC	5426		(*)	(*)	(*)	(*)	(*)	
VINELAND DRESSED BEEF INC	5430		(*)	(*)	(*)			
WHIPPANY MEAT PACKING INC	5437		(*)				(*)	
KLEEMEYER & MEAT[illegible] INC	5439		(*)					
MUENCH MEATS & SONS CO	5442		(*)					
SIEGEL BROS INC	5457		(*)	(*)	(*)			
BUTTER LANE FARM	5462		(*)					
MARLBORO PSYCHIATRIC HOSPITAL	5464		(*)				(*)	
PERSON'S PROCESSING	5469		(*)	(*)		(*)	(*)	
RUSSO PACKING CO	5471		(*)	(*)	(*)	(*)		
RUSSO PACKING CO	5471A		(*)					
WINCHESTER PACKING CO INC	5500		(*)				(*)	
PAULLINA BEEF PROCESSORS INC	5501		(*)					
MORELAND & MAY PROCESSING PLANT	5507		(*)	(*)			(*)	
AMEND PACKING CO	5509		(*)					
GIBBON PACKING CO	5511		(*)					
HERB'S LOCKER & SLAUGHTER INC	5514		(*)					
CENTRAL FOODS INC	5519		(*)	(*)			(*)	
HEWLETT WHOLESALE MEATS	5524		(*)	(*)				
CASE MEAT PROCESSING	5530		(*)	(*)			(*)	
SIOUX-PRIME PACKING CO	5537						(*)	
JACK POLEN PACKING CO	5548		(*)					
IOLA MEAT PROCESSORS INC	5555		(*)					
THE FANESTIL PACKING CO INC	5562		(*)					

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
HAVILAND BROS PACKING CO INC	5565	(*)	(*)	(*)		(*)	
TAMA MEAT PACKING CORPORATION	5569	(*)					
STANKO PACKING CO	5572	(*)					
BUTCHERS INC	5575	(*)	(*)	(*)	(*)	(*)	
GRABILL COUNTRY MEATS #1 INC	5593	(*)		(*)	(*)		
WIMMER'S MEAT PRODUCTS INC	5601	(*)	(*)	(*)	(*)	(*)	
HERMAN THE GERMAN SLAUGHTERHOUSE	5604	(*)	(*)	(*)		(*)	
JACK'S PROCESSING	5608	(*)		(*)		(*)	
ORD COLD STORAGE	5610	(*)				(*)	
JOHNSON'S FROZEN FOODS	5612	(*)	(*)	(*)	(*)	(*)	
JIMMY DEAN MEAT CO INC	5614					(*)	
DE LUCA PACKING CO INC	5621	(*)	(*)	(*)		(*)	
ALBION LOCKERS	5622	(*)		(*)	(*)	(*)	
ALEXANDRIA PACKING CO	5623	(*)	(*)	(*)		(*)	
BRAATEN & PALMER MEATS	5626	(*)	(*)	(*)	(*)	(*)	
GOERTZEN'S PROCESSING	5630	(*)	(*)	(*)	(*)	(*)	
CARLSON'S INC	5632	(*)	(*)	(*)	(*)	(*)	
OSAKIS MEAT & PROCESSING	5633	(*)	(*)	(*)	(*)	(*)	
DOTY PACKING CO INC	5634	(*)		(*)		(*)	
GRUNKEMEYER MEATS	5635	(*)				(*)	
OTTE PACKING	5638	(*)	(*)	(*)		(*)	
E & E MEATS PROCESSING	5639	(*)		(*)		(*)	
F & S SAUSAGE CO INC	5640	(*)		(*)	(*)	(*)	
JOHNSON STEAK MASTER	5641	(*)		(*)	(*)	(*)	
DESHLER ZERO PANTRY	5645	(*)					
PETERSON'S LOCKERS INC	5647	(*)		(*)		(*)	
TATUM'S PROCESSING PLANT	5649	(*)	(*)	(*)		(*)	
CUSTOM PACK INC	5650	(*)	(*)	(*)			
ANDERSON'S LOCKER & PACKING CO INC	5651	(*)				(*)	
CITY MEAT MARKET INC	5652	(*)	(*)	(*)		(*)	
UERLING LOCKER	5653	(*)				(*)	
BELINDE'S LOCKER PLANT	5654	(*)		(*)		(*)	
EPLER MERCANTILE CO	5655	(*)		(*)	(*)	(*)	
KIMBALL LOCKERS	5656	(*)		(*)		(*)	
TRAUTMAN'S MEAT CENTER INC	5657	(*)		(*)	(*)	(*)	
UNIV OF NEBRASKA LOEFFEL MEAT LABORATORY	5658	(*)		(*)		(*)	
BUTLER'S BEEF ACRES	5660	(*)	(*)	(*)	(*)	(*)	
ROMAN PACKING CO INC	5662	(*)	(*)	(*)	(*)	(*)	
PETERSBURG LOCKER INC	5668	(*)	(*)	(*)		(*)	
MERTZ MEAT MARKET	5671	(*)	(*)	(*)		(*)	
YOST PACK INC	5672	(*)	(*)	(*)	(*)	(*)	
HOLLSTEIN PACKING CO	5673	(*)	(*)	(*)		(*)	
HASTINGS MEAT SUPPLY INC	5674	(*)				(*)	
KREIMER'S STORE	5681	(*)	(*)	(*)		(*)	
TECUMSEH LOCKER	5682	(*)	(*)	(*)	(*)	(*)	
VALENTINE LOCKER	5683	(*)	(*)	(*)		(*)	
WAKEFIELD LOCKER SERVICE	5685	(*)					
WAUSA LOCKERS	5686	(*)	(*)	(*)		(*)	
IOWA PORK INDUSTRIES INC	5689	(*)				(*)	
HAROLD'S GROCERY & LOCKER	5693	(*)					
BIRDGE & ZIMMERMAN INC	5700	(*)	(*)	(*)	(*)	(*)	
HAVLIK'S LOCKER PLANT	5729	(*)		(*)		(*)	
BANFIELD OF TULSA INC	5763	(*)	(*)	(*)		(*)	
SHERMAN CUSTOM SLAUGHTERING	5764	(*)				(*)	
ALEWEL'S INC	5766	(*)		(*)		(*)	
LEROY'S SLAUGHTER	5767	(*)					
V-B MEAT CO	5769	(*)	(*)	(*)	(*)	(*)	
PERRYVILLE PACKING CO	5770	(*)	(*)	(*)	(*)	(*)	
HASTY PACKING CO	5772	(*)	(*)	(*)		(*)	
KAHRE & SONS SLAUGHTERING & PROCESSING	5775	(*)	(*)	(*)	(*)	(*)	
FRIGID FOOD SERVICE	5776	(*)		(*)	(*)	(*)	
UNIVERSITY OF MISSOURI FS & N DEPT	5777	(*)		(*)		(*)	
SPRAGUE SLAUGHTER HOUSE	5779	(*)	(*)	(*)		(*)	
EDENS DUTCH PACKING CO	5781	(*)	(*)	(*)	(*)	(*)	
THE DEEP-FREEZE INC	5782	(*)		(*)	(*)	(*)	
LUMLEY LOCKER	5788	(*)		(*)		(*)	
SEATON MEAT CO	5791	(*)		(*)	(*)	(*)	
PARIS LOCKER & ABATTOIR	5795	(*)		(*)		(*)	

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
DALE'S PACKING CO	5797	(*)	(*)				
NORVS MEAT PRODUCTS	5798	(*)	(*)	(*)	(*)	(*)	
MCGEE PACKING CO	5801	(*)		(*)		(*)	
ST LOUIS MEATS INC	5807	(*)				(*)	
WARSAW MEAT PROCESSING CO INC	5812	(*)		(*)	(*)	(*)	
SCHLESWIG SAUSAGE INC	5813	(*)				(*)	
HARBORNE LOCKER SERVICE	5820	(*)	(*)			(*)	
MOTT'S FOOD LOCKERS ABATTOIR	5821	(*)				(*)	
STRESTON SLAUGHTERHOUSE	5824	(*)	(*)				
HUGHESVILLE SLAUGHTER PLANT	5826	(*)	(*)	(*)	(*)	(*)	
FOOS BROS INC SLAUGHTER HOUSE	5827	(*)	(*)	(*)		(*)	
LEET'S LOCKER PLANT	5835	(*)				(*)	
GIBSON PACKING CO	5843	(*)	(*)			(*)	
C & C MEATS	5848	(*)				(*)	
WINNER PROCESSING	5857	(*)				(*)	
HERLOCK PORK PRODUCTS	5903					(*)	
CENTAUR FOODS INC	5907	(*)	(*)			(*)	
JOSEPH CHIU	5910	(*)	(*)			(*)	
DE VRIES MEAT PACKING	5911	(*)	(*)	(*)	(*)	(*)	
JOHN MARCACCI	5913	(*)	(*)	(*)	(*)	(*)	
BRISTOL BEEF	5998	(*)	(*)	(*)	(*)	(*)	
J GAGLIARDI INC	5999		(*)	(*)			
ARIZONA BEEF CO	6001	(*)	(*)				
A C PARKE & SONS CO	6003	(*)	(*)				
UNIVERSITY OF NEVADA ANIMAL SCIENCE DIVISION	6004	(*)	(*)	(*)		(*)	
PFISTNER MEAT CO INC	6011	(*)	(*)			(*)	
UNIVERSITY OF CALIF-DEPT OF ANIMAL SCIENCE	6012	(*)	(*)	(*)		(*)	
SONOMA VALLEY MEAT CO	6016	(*)	(*)	(*)	(*)	(*)	
REESE MEAT PACKING CO	6017	(*)	(*)	(*)	(*)	(*)	
MOUNT VERNON MEAT CO INC	6039	(*)	(*)				
PASCO MEAT PACKERS INC	6040	(*)	(*)			(*)	
WEBER INC	6041	(*)	(*)	(*)	(*)	(*)	
MCRAE PACK INC	6042	(*)	(*)	(*)		(*)	
FLORENCE PACKING CO INC E	6043						(*)
DAVIS MEAT CO	6044	(*)	(*)			(*)	
AVILA MEAT CO	6046	(*)	(*)				
SATICOY MEAT PACKING CO	6055	(*)	(*)	(*)		(*)	
SCHUNK PACKING CO	6056	(*)	(*)	(*)		(*)	
TULARE MEAT CO	6063	(*)	(*)				
REDWOOD MEAT CO	6066	(*)	(*)	(*)	(*)	(*)	
GRANDVIEW PACKING CO	6083	(*)	(*)	(*)		(*)	
ARNOPOLE MEAT CO	6084	(*)	(*)			(*)	
STILSON MEATS	6094	(*)	(*)				
G & G MEATS	6099	(*)	(*)				
KRATZIG MEAT CO	6110	(*)	(*)	(*)	(*)	(*)	
ARNOLD MEAT CO	6113	(*)	(*)	(*)		(*)	
MID-CAVE MEAT PACKING CO	6114	(*)	(*)			(*)	
CEDAR PACKING CO	6118	(*)	(*)	(*)	(*)	(*)	
CUYAMACA MEAT CO	6126	(*)	(*)				
T P PACKING CO	6173	(*)	(*)				
LEWIS MEATS	6175	(*)	(*)	(*)		(*)	
R & R LOCKER PLANT	6228	(*)		(*)		(*)	
TRI MILLER PACK	6230	(*)	(*)	(*)		(*)	
THE MEAT HOUSE	6237	(*)	(*)	(*)	(*)	(*)	
EVANS MEAT CO	6243	(*)					
VALLEY MEAT CO	6269	(*)	(*)	(*)	(*)	(*)	
MC CARY MEATS	6270	(*)	(*)	(*)	(*)	(*)	
STILLWATER PACKING CO	6271	(*)		(*)		(*)	
BIG SKY MARKET	6277	(*)		(*)		(*)	
J T TRELEGAN CO	6343				(*)		
HAMESIT ABATTOIR	6344	(*)	(*)				
E L BLOOD & SON	6354	(*)	(*)	(*)	(*)	(*)	
BAITO'S MEATS & PROVISIONS	6359	(*)	(*)	(*)	(*)	(*)	
ISRAEL SHEINHIT PACKING CO	6369	(*)	(*)				
JOHN SZALA	6376	(*)	(*)				
GOLDEN DALE RANCH MEAT CO	6411	(*)	(*)	(*)		(*)	
RICE MEAT PACKING CO	6413	(*)	(*)	(*)	(*)	(*)	
CALDREATH PACKING CO	6420	(*)	(*)	(*)	(*)	(*)	

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
WHOLESALE MEATS	6421	*	*	*	*		
MC KLENLEY MEAT PACKING CO	6423	*	*				
NORTHWEST PROCESSORS INC E	6429						*
FOSS BROTHERS	6434	*	*	*	*	*	
WILDER PACKING PLANT	6445	*	*	*	*	*	
BIG COUNTRY MEAT	6446	*	*	*	*	*	
CREAGHE PACKING CO	6450	*		*	*	*	
WINDSOR PACKING CO	6452	*	*	*	*	*	
RIFLE PACKING PLANT	6453	*	*	*			
ELIZABETH LOCKER PLANT INC	6454	*	*	*	*	*	
SCANGA MEAT CO	6460	*	*	*		*	
T W PACKING	6462	*	*	*	*	*	
BRUSH PACKING PLANT	6463	*	*	*		*	
NELSON'S DRESSED MEATS	6470	*	*	*		*	
YORK'S MEAT	6482	*	*	*	*	*	
MORI WHOLESALE MEATS	6485	*	*	*	*	*	
K PACK MEAT CO	6487	*	*	*	*	*	
CARSON VALLEY MEAT CO	6491	*	*	*	*	*	
HOTCHKISS ICE & COLD STORAGE CO	6493	*	*	*	*	*	
QUALITY PACKING INC	6494	*	*	*	*	*	
HIGH QUALITY PACK	6495	*				*	
GREEN HILL INC	6513	*				*	
ELM HILL MEATS INC	6515	*				*	
GEORGE H MEYER SONS INC	6521	*	*	*		*	
GUARD HILL MEATS INC	6526	*	*	*	*	*	
MORRISTOWN PROVISION CO	6535	*	*			*	
GUNNOE SAUSAGE CO INC	6541					*	
ODOM SAUSAGE CO INC	6544					*	
K-M CO	6545	*					
SUFFOLK PACKING CO INC	6546	*	*	*			
MARTINS ABATTOIR & WHOLESALE MEATS	6547	*	*		*	*	
DAVIS COUNTRY SAUSAGE	6549	*	*				
NORMAN'S PACKING PLANT	6552	*	*				
THE WELLS CO INC	6554	*	*	*	*	*	
FAYETTE PACKING CO	6555	*	*	*	*	*	
GILBERT'S SLAUGHTER HOUSE	6556	*	*		*	*	
PENN HAVEN MEATS INC	6559	*				*	
HAYES PROCESSING PLANT	6560	*				*	
LINDSEY'S SLAUGHTER HOUSE	6561		*			*	
SAVANNAH PROCESSING & LOCKER	6562	*				*	
BOLIVAR PACKING CO	6563	*	*			*	
BROWN'S MEAT PLANT	6570	*				*	
BALTZ BROS PACKING CO INC	6573	*				*	
EDWARDS SAUSAGE CO INC	6579					*	
GLASGOW MARKET	6580			*		*	
M & G SLAUGHTER HOUSE	6582			*		*	
ROD'S PROCESSING CO	6584	*				*	
ELMORE COUNTY QUICK FREEZE	6585	*				*	
BROWN PACKING CO INC	6587	*	*				
RANDOLPH PACKING CO INC	6590	*	*	*	*	*	
LEDFORDS LIVESTOCK FARM SLAUGHTER PLANT	6591A	*	*	*		*	
QUAKER BRAND MEATS	6593				*		
WHITE PACKING CO	6595	*	*			*	
GROGAN MEAT CO	6598	*				*	
GREENBACK FOOD SPECIALTY	6601	*	*	*		*	
JAKES BROS SAUSAGE CO	6610					*	
MEEKS SLAUGHTER HOUSE	6612	*		*	*	*	
TENNESSEE VALLEY PACKING CO	6613					*	
PARKS HARRIS CO	6618		*	*	*	*	
DEAN SAUSAGE CO INC	6621					*	
MORRISSEY MEATS & PROVISIONS	6628	*	*	*	*		
BOONEVILLE PACKING CO	6635	*				*	
PETE'S MARKET	6636	*			*	*	
TUCKER'S SAUSAGE	6643					*	
SPRING CREEK INC	6644		*			*	
BRASELTON PACKING	6652	*	*		*	*	
SAN JUAN MUNICIPAL SLAUGHTER HOUSE	6675	*	*		*	*	
MACELO DE HUMACAO	6676	*	*			*	

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
ASOCIACION SUPLIDORES DE CARNES DEL OESTE	6677	(*)	(*)	(*)	(*)	(*)	
YAUCO MUNICIPAL GOVERNMENT	6678	(*)	(*)	(*)	(*)	(*)	
MANATI SLAUGHTER HOUSE	6679	(*)	(*)				
MUNICIPAL SLAUGHTER HOUSE	6680	(*)	(*)			(*)	
MUNICIPALITY OF VIEQUES	6681	(*)					
MUNICIPALITY OF ARECIBO	6682	(*)				(*)	
AGROPECUARIA DEL SUR INC	6684	(*)	(*)		(*)	(*)	
NAGUABO REGIONAL ABATTOIR	6686	(*)	(*)			(*)	
SAN SEBASTIAN ABATTOIR	6687	(*)	(*)	(*)	(*)	(*)	
MACELO MUNICIPAL DE PONCE	6689	(*)	(*)	(*)	(*)	(*)	
MACELO DE COROZAL	6690	(*)	(*)			(*)	
LARES SLAUGHTERHOUSE	6696	(*)	(*)	(*)	(*)	(*)	
PELL CITY MEAT PROCESSING	6728	(*)	(*)			(*)	
PROVIMI DE PUERTO RICO INC	6729		(*)				
DICKSON COUNTY MEATS INC	6750	(*)		(*)		(*)	
STAR MEAT CO	6760					(*)	
WALTER PACKING INC	6766	(*)				(*)	
CALIHAN & CO	6775	(*)					
HELMS MEATS INC	6777	(*)	(*)	(*)		(*)	
THE ROSE ABATTOIR CO	6780	(*)	(*)	(*)			
BOB EVANS FARMS INC	6785					(*)	
BERGMAN MEAT PACKING CO	6788	(*)	(*)			(*)	
ILLINI BEEF PACKERS INC	6792	(*)					
BOB EVANS FARMS INC	6807					(*)	
UTICA PACKING CO	6832					(*)	
SIDNEY MEAT CO	6843	(*)				(*)	
COLUMBIA PACKING CO INC	6853	(*)		(*)			
HARBURGER PACKING CO	6863	(*)					
LILY PACKING INC	6866	(*)					
HITCH PACKING CO INC	6887	(*)					
MILLER PROCESSING CO INC	6889	(*)	(*)	(*)	(*)	(*)	
COUNTRY PRIDE INC	E 6893						(*)
ROPAK INC	6901	(*)				(*)	
ECKERT'S INC	6917	(*)				(*)	
MEATXCOUP	E 6920						(*)
TRI STATE FOODS INC	6957	(*)					
THE CUYAHOGA MEAT CO	6963	(*)	(*)	(*)	(*)	(*)	
ABE MAY PACKING CO	6965	(*)	(*)			(*)	
SELECTED MEATS	6979	(*)	(*)				
FARMLAND FOOD SERVICES INC	6980	(*)					
WILLIAM P FROEHLICK	6982	(*)	(*)	(*)	(*)		
JUDSON PACK INC	6989	(*)	(*)	(*)		(*)	
PURDUE UNIVERSITY MEAT SCIENCE LABORATORY	6992	(*)		(*)		(*)	
SCHWARTZMAN PACKING CO	7003	(*)					
DEMING PACKING CO INC	7005	(*)				(*)	
CATTLEMEN'S MEAT PROCESSING CO	7007	(*)	(*)	(*)	(*)	(*)	
SURRATT PACKING CO INC	7009	(*)	(*)	(*)	(*)	(*)	
MUSKOGEE PACKING CO INC	7015	(*)	(*)	(*)	(*)		
HATCH PACKING CO INC	7021	(*)	(*)	(*)	(*)	(*)	
SIXTY-SIX PACKING CO	7023	(*)				(*)	
WESTERN MEAT PACKERS INC	7028	(*)				(*)	
KACHINA PACKING CO	7040	(*)		(*)	(*)	(*)	
BELTEX CORPORATION	E 7041						(*)
TAYLOR'S CUSTOM MEAT PROCESSORS INC	7048	(*)	(*)	(*)	(*)	(*)	
HARRYMAN'S MEAT PROCESSING	7052	(*)	(*)			(*)	
ROCKING V BEEF INC	7054	(*)	(*)	(*)	(*)	(*)	
BROWN'S MEAT LOCKER	7055	(*)		(*)	(*)	(*)	
DONOHO BONELESS BEEF CO	7056	(*)	(*)	(*)	(*)	(*)	
BROWN PACKING CO INC	7064	(*)				(*)	
RUNYAN PACKING CO	7065	(*)	(*)	(*)	(*)	(*)	
P & S PACKING CO	7074	(*)	(*)			(*)	
TANKERSLEY BROS PACKING CO	7075	(*)	(*)	(*)	(*)	(*)	
COMMUNITY ABATTOIR INC	7075A	(*)	(*)	(*)	(*)	(*)	
HUGHSON MEAT CO INC	7086	(*)	(*)	(*)	(*)	(*)	
CLENNIN MEATS	7090	(*)		(*)	(*)	(*)	
RANCHERS MARKETS INC ATHENS PROCESSING PLANT	7094	(*)	(*)			(*)	
TURVEY INC	7097	(*)					
E-TEX PACKING CO	7122	(*)	(*)				

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
FELICIANA MEAT SUPPLY	7128	*	*	*	*	*	
WINDTHORST FINE MEATS	7130	*		*	*	*	
COLORADO PACKING CO INC	7133	*	*			*	
VALLEY MEAT SUPPLY & SERVICES	7138	*	*	*	*	*	
WICKHAM PACKING CO INC	7139	*	*			*	
B & B PACKING CO	7146	*	*	*	*	*	
OSBURN PACKING CO	7150	*	*			*	
DON MCDOWELL MEAT PACKING CO	7155	*				*	
SOUTHERN MEAT PACKERS INC	7157					*	
GREER'S INC	7159					*	
BOOKER CUSTOM PACKING CO	7162	*	*		*	*	
BAUER & SON PACKING CO	7178	*	*				
ALL-STATE PACKING CO	7193	*	*		*		
SHALLOUF PACKING CO INC	7201	*	*	*		*	
J W POSHEE DBA SINGLETREE FARMS	7203	*				*	
CONCHO PACKING CO	7209	*	*	*	*	*	
COLUMBIA PACKING	7237	*	*			*	
CORSICANA MEAT PACKING CO INC	7239		*				
AMERICAN PACKING CO INC	7248	*	*	*	*	*	
AMARILLO BEEF PROCESSORS INC	7254	*					
H & H PRODUCTS CO INC	7259	*	*	*		*	
FORREST MEAT PROCESSING	7270	*			*		
HOBSONS MEATS SLAUGHTER & PROCESSING	7274	*			*	*	
PALACE MEAT PACKING	7275	*				*	
PALO DURO MEAT PROCESSING INC	7282	*					
BEEVILLE PACKING CO	7283	*					
MONTGOMERY PACKING CO	7286	*					
THOMPSON PACKERS INC	7287	*	*				
PEOPLES BANK	7291	*				*	
CIRCLE A PACKING CO	7298	*				*	
KENTUCKY SAUSAGE CO INC	7300	*				*	
DUFFY BONELESS BEEF CO	7305	*	*				
METZGER PACKING CO INC	7306	*	*			*	
ENTERPRISE MEAT CO INC	7319	*	*				
CHEROKEE PACKING CO	7323	*	*			*	
OLE SALEM PACKING CO	7326	*				*	
MC BAR ACRES	7339					*	
VAUGHN'S BEEF INC	7341	*					
JEFFERSON MEAT PROCESSING	7343	*	*			*	
DYER & WHITSON MEAT PROCESSORS	7345	*	*			*	
J-F-J PROCESSORS	7379	*	*		*	*	
ST THOMAS ABATTOIR	7385	*	*	*	*	*	
SAN GERMAN SLAUGHTERHOUSE	7386	*	*	*	*	*	
CABO ROJO MUNICIPAL SLAUGHTERHOUSE	7387	*	*	*	*	*	
QUEBRADILLAS MUNICIPAL SLAUGHTER HOUSE	7388	*	*	*	*	*	
MACELO DE AIBONITO	7390	*	*		*	*	
COLEMAN SAUSAGE CO	7401					*	
HENRY W STAPF INC	7402		*	*			
HARRISONBURG WHOLESALE MEAT CO	7420	*	*	*	*	*	
DUFFEY SAUSAGE CO	7424	*				*	
HAMPTON MEAT PROCESSING	7429	*	*	*		*	
SHARON FROZEN FOOD LOCKER	7430	*	*	*		*	
DINNER BELL MEAT PRODUCTS	7440	*	*	*		*	
BLUE RIDGE BEEF PLANT INC	7445	*					
BLUE RIDGE BEEF PLANT INC	7445A	*					
WILLIAMS SAUSAGE CO	7455					*	
TITANGEL ABATTOIR	7462		*			*	
F B PURNELL SAUSAGE CO INC	7464	*			*	*	
DIAMOND MEAT CO INC	7465	*				*	
FIELD PACKING CO	7467	*					
H & R CUSTOM SLAUGHTERING	7472	*				*	
BRUNDIDGE SAUSAGE CO	7475					*	
TENNESSEE PACKERS & PROCESSORS	7482	*	*				
DANVILLE MEAT PRODUCTS CO	7486	*				*	
DUGGARD'S MEAT PROCESSING INC	7493	*	*			*	
HOERTER & SON	7497		*				
T M LANDIS INC	7517	*	*	*			
DEALAMAN ENTERPRISES INC	7562	*	*	*	*	*	

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
CARDNER-HALE CO	7576	*					
DAKOTA PACKING CO	7600	*		*		*	
ARKERSON'S MEAT PROCESSING CO	7601	*	*	*		*	
M & M BEEF PACKERS	7602	*	*				
MISSOURI VALLEY MEAT CO	7604	*	*	*			
CEDAR RIVER MEAT SERVICE	7607	*		*		*	
IRON LOCKER PLANT	7609	*	*	*		*	
CASSELTON COLD STORAGE	7611	*	*	*	*	*	
CHIEF BEEF LOCKERS	7612	*		*		*	
FAIRMOUNT LOCKERS	7615	*	*	*	*	*	
SHARKEY'S BOY ENTERPRISES INC	7616	*		*		*	
BEST MEATS	7617	*		*		*	
PARK RIVER LOCKER PLANT	7618	*		*		*	
NIAGARA LOCKERS	7619	*		*		*	
BURDEN LOCKER PLANT	7620	*	*	*		*	
LANGDON LOCKERS	7622	*	*	*		*	
ABBOTS LOCKER PLANT	7623	*		*		*	
ROCKLAKE LOCKER PLANT	7624	*		*		*	
ARETA MEATS	7625	*		*	*	*	
NORTH DAKOTA STATE UNIVERSITY ANIMAL SCIENCE	7627	*		*		*	
GRANT'S PROCESSING	7634	*		*		*	
BICKLER'S JACK & JILL	7635	*	*	*	*	*	
DAKOTA MEATS INC	7636	*	*	*	*	*	
NORTH DAKOTA STATE HOSPITAL	7639	*	*				
MYERS MEAT PROCESSING	7641	*		*		*	
HILLSIDE MEAT CO	7642	*		*		*	
CITY MEAT & LOCKER	7644	*		*		*	
NELSON JACK & JILL	7646	*				*	
TRIO BOWL	7648	*				*	
K & E PROCESSING & SALES	7655	*		*		*	
JOHN BOWL	7656	*				*	
JAT CORPORATION	7661	*	*	*		*	
MORGAN COLORADO BEEF CO	7671	*					
CITY MEAT CO	7677	*		*		*	
RAIN MEAT SERVICE	7678	*		*		*	
MILES CITY PACKING CO	7679	*	*	*			
HARDT'S INC	7684	*					
SEITZ-BORDERS PROCESSING PLANT	7685	*		*		*	
TIMBERLAND PACKING CORPORATION	7687	*	*				
ROCKY MOUNTAIN PACKING CO INC	7690	*	*	*		*	
TRIANGLE PACKING CO	7691	*					
MARIAS PACKING CO	7692	*	*	*		*	
LLOYD B SCHMITT'S STANFORD MEAT	7694	*		*			
C & W MEAT CO	7695	*	*	*		*	
MONTANA STATE PRISON	7707	*				*	
ROBERTS PACKING PLANT	7708	*	*			*	
C & P PACKING PLANT INC	7710	*		*	*	*	
HI-LINE PACKING	7711	*		*			
FAN MOUNTAIN MEATS	7712	*	*	*		*	
GALLATIN VALLEY PACKING	7713	*	*	*	*	*	
KALISPELL MEAT CO	7716	*	*	*			
WHITES WHOLESALE MEATS	7717	*	*			*	
VANDERVANTER MEATS	7718	*	*				
RASMUSSEN MEATS	7719	*	*	*	*	*	
TOLMAN MEAT PROCESSING	7724	*	*	*		*	
DOUGLAS PROCESSING & COLD STG INC	7731	*		*		*	
MICKEY'S PACKING PLANT	7732	*	*	*		*	
LIMON PACKING CO	7738	*		*			
MODERN LOCKER PLANT	7745	*	*	*	*	*	
COLORADO STATE UNIV DEPT OF ANIMAL SCIENCES	7747	*		*		*	
CLEARWATER LOCKER PLANT	7748	*		*	*	*	
ROYAL GORGE PACKING CO INC	7749	*			*	*	
CREST PAK, INC	7751	*					
BLAINE MEAT CO	7755	*					
JET PAK INTERNATIONAL INC	E 7755						*
UNIVERSITY OF MINNESOTA MEAT SCIENCE LAB	7759	*	*	*		*	
BOB EVANS FARM INC	7763					*	
ADAMS LOCKER	7774	*	*	*		*	

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
DALES MEAT PROCESSING	7781	*	*	*		*	
LINDENFELSER MEATS	7782	*				*	
HUETTLS LOCKER & DRESSING PLANT	7785	*	*	*		*	
SWANSON MEAT MARKET	7790	*	*			*	
CARLOS LOCKERS	7796	*	*	*	*	*	
HOFFMAN MEATS	7797	*	*	*		*	
CLARISSA MEATS	7799	*	*	*	*	*	
CCB ABATTOIR	7801	*	*	*			
BANGOR BEEF CO	7806	*			*		
CONTI PACKING CO INC	7814	*					
KENNETH BAKER FARMS	7845	*	*	*	*	*	
READFIELD ABATTOIR	7874	*	*	*	*	*	
BOVALINA PACKING CO INC	7875	*	*	*	*		
HORST CUSTOM SLAUGHTERING & PROCESSING	7882	*	*	*		*	
PETER D VILLARI INC	7887				*	*	
JAMES F ETZLER	7897	*				*	
BRADLEY PROCESSING CO	7900	*				*	
LAWSON PACKING CO	7908	*	*	*	*	*	
WRIGHT'S PROVISIONS INC	7920					*	
PARTIN'S COUNTRY SAUSAGE	7923					*	
ROBBINS PACKING CO INC	7932	*				*	
ELM HILL MEATS INC	7936	*				*	
KOCH BEEF CO	7937	*	*				
HIXSON PACKING CO	7938	*	*		*	*	
SOUTHERN PACKING CORPORATION	7945	*	*	*		*	
CHARLES J SCHMIDT & CO	7948			*			
DREHER PACKING CO INC	7957					*	
MATKINS MEAT PROCESSORS INC	7975	*	*			*	
KLING'S MEAT MARKET	7983	*	*	*		*	
DUFFEY SAUSAGE CO INC	7984	*					
PURCHASE PACKERS INC	8009	*				*	
TENNESSEE FARMER INC	8008	*					
UNIVERSITY OF KENTUCKY MEAT LABORATORY	8013	*		*		*	
BERRYHILL MEAT PROCESSING	8016	*	*		*	*	
V W MILLER & SONS	8022	*	*	*		*	
COUNTRY CORNER MEAT CENTER	8024	*	*	*	*	*	
BOURBON PACKING CO	8027	*		*		*	
WALTON LOCKER & SLAUGHTER PLANT	8031	*		*		*	
BILL WHEELER SLAUGHTER HOUSE	8034					*	
FARMERS SLAUGHTER HOUSE	8035	*		*	*	*	
HARRY ROSS PACKING CO	8045	*				*	
SLADE'S MEAT PACKERS INC	8054	*				*	
HUGHES MARKET	8055					*	
JUENGLING COMMODITIES CORPORATION	8058	*					
S M CAMPBELL CO INC	8062	*				*	
GRIBBLE'S PROCESSING	8066	*	*			*	
BOONE'S BUTCHER SHOP	8078	*	*	*			
KIRBY & POE SLAUGHTER HOUSE	8082	*				*	
GREGORY SLAUGHTER HOUSE INC	8083	*		*		*	
RIGHT BEAVER PACKING CO	8086	*	*			*	
ELMORE & PAYNE PACKING CO INC	8088	*	*	*	*	*	
PICKETT'S PROCESSING INC	8090	*					
IGNACIO FOOD STORE INC	8123	*		*		*	
IGNACIO FOOD STORE INC	8123A	*				*	
STEAMBOAT PACKING CO	8124	*	*	*		*	
JENSEN'S BLUE RIBBON PROCESSING INC	8131	*		*	*	*	
BROWNSDALE MEAT SERVICE INC	8189	*	*	*		*	
SOL'S PACKING	8195	*	*	*	*	*	
C V PANIZERA	8271	*	*	*	*	*	
SUNSHINE MEAT CO	8286	*	*	*	*	*	
CURTIS PACKING CO INC	8302	*	*	*	*	*	
NATION'S MEAT CO INC	8303	*				*	
LARRY'S SAUSAGE CO	8305					*	
FALCON WHOLESALE MEAT	8309	*				*	
FULLER SLAUGHTER PLANT	8312	*			*	*	
FORTENBERRY SAUSAGE CO	8313	*	*	*		*	
SWAGGERTY SAUSAGE CO INC	8314	*				*	
WADE AUSMUS	8315	*					

NAME OF ESTABLISHMENT		EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
HERRON PACKING CO		8316	*	*	*	*	*	
B-F PACKING CO		8318	*					
LINGO PACKING CO		8319	*				*	
ESTEPP SLAUGHTER		8320	*	*	*		*	
SELL MEAT CO INC		8321	*	*	*			
WADE BULLA SLAUGHTER HOUSE		8323	*	*			*	
MADISON PACKING CO		8325	*			*	*	
VALLEY SLAUGHTER & PROCESSING		8326	*	*	*			
B & B PACKING CO		8327	*	*			*	
HOLDEN BROTHERS PACKING CO		8329	*				*	
D & W PACKING INC		8331	*					
Q R S MEAT CO INC		8332	*			*	*	
COOP AGRICOLA DE CIDRA		8336	*	*	*			
PERFECTA USA INTERNATIONAL	E	8337						*
HOLLAND & DOTSON SLAUGHTER & PROCESSING		8339	*				*	
CITY PACKING CO		8341					*	
SOUTH FOODS INC		8344	*	*	*	*	*	
EMORY RIVER PROCESSING CO		8353	*				*	
R G GUNNOE FARMS INC		8392					*	
TURNER FARM MEAT PROCESSING		8401	*				*	
COLQUITT MEAT CO		8404	*			*	*	
ROBINSON SAUSAGE CO		8405	*				*	
ROBERT L BULLOCK		8461	*	*	*		*	
CENTRAL MEAT PACKING DIV CENTRAL FOOD SERVICE		8496	*	*			*	
CONNECTICUT PACKING CO		8502	*	*	*	*	*	
KARL EHMER INC		8520A	*					
BURTON BLOCK	E	8523						*
CORBIN MEAT PACKING CO		8537	*	*	*	*		
CHAMPLAIN BEEF CO		8547	*	*	*		*	
BLOUGH PACKING		8551	*	*	*	*	*	
LEALI BROS INC		8555	*	*	*		*	
NEW HOLLAND MEAT MARKET		8556	*	*			*	
SHOBER'S & SONS INC		8557	*	*				
M & J HOUSE OF BEEF & PORK INC		8558	*	*	*		*	
S WRIGHT MEAT PACKING		8559	*			*	*	
JUNIATA PACKING CO		8560	*	*	*		*	
GODFREY BROS		8562	*	*	*		*	
R L SIPES LOCKER PLANT		8565	*	*	*		*	
HELTERS CUSTOM SLAUGHTERING		8569	*				*	
W W SNAVELY		8570	*	*	*		*	
KNUPP BROTHERS		8572	*	*	*		*	
JAMES EBERLY		8573	*	*	*		*	
CHARLES ILYES		8576	*				*	
PETERS BROS MEAT MARKET INC		8581	*	*	*	*	*	
RICHARD W SERENA		8582	*					
RUSSIC SHADE PACKING		8583	*	*	*		*	
FRITZ'S MEATS		8585	*				*	
BILSKI MEATS		8586	*	*	*	*	*	
HOWRY'S MEAT PROCESSING		8587	*	*	*		*	
LLOYD & EARL YOCHUM		8588	*	*			*	
CUNNINGHAM PKG CO		8590	*	*	*		*	
CARL GOOD INC		8591	*	*			*	
JOHN M PELUSO & SONS		8592	*	*			*	
ROSE'S SLAUGHTER HOUSE		8595	*	*	*		*	
SECHRIST BROS INC		8596	*	*	*			
RILEY MEAT PROCESSING		8604	*	*	*		*	
RICHARD L BECK & SONS INC		8607	*	*	*	*	*	
CHARLES WINICK		8608	*	*	*		*	
NEW WILMINGTON SLAUGHTER HOUSE		8609	*	*	*		*	
JAMES R MCDEAVITT		8610	*	*	*		*	
WITMAN'S MEATS		8611	*	*	*		*	
KOVACEVIC BROS PACKING CO		8612	*	*	*	*	*	
KARL K KLING		8613	*	*	*			
HI WAY MEAT MARKET		8615	*	*	*		*	
ROBIE MEAT PACKERS		8616	*	*	*	*	*	
DYSINGER MEATS INC		8622	*	*	*		*	
PAUL E ADAMS		8623	*	*			*	
C H REED'S SONS		8624				*		

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
A J PEACEY & SONS	8628	*	*	*		*	
RAY T BENNER & SON	8630	*	*			*	
HARRY HARPER WAGNER	8631	*					
HONSAKER BROS MEAT MARKET	8632	*	*	*		*	
TED'S MEAT MARKET	8633	*	*	*		*	
ESPENSHADE QUALITY MEATS	8635	*	*	*			
HIRSCH MEATS	8636	*	*	*		*	
ECONOMY LOCKER STORAGE CO INC	8642	*	*	*	*	*	
CECIL F FRAKER	8643	*	*	*		*	
REBUCK FARMS	8644	*	*	*			
ROTHERMEL MEATS	8645	*	*	*	*	*	
HARVEY A KIPP	8646	*	*	*		*	
HENRY'S MEAT MARKET	8648	*	*	*		*	
GIUNTA WHOLESALE MEATS	8649	*	*	*	*	*	
HILLEN JRG PROCESSING & SLAUGHTERING	8680	*	*			*	
DAN'S COUNTRY MEATS INC	8681	*	*	*	*	*	
CLOUD PACKING CO	8682	*	*	*		*	
LE DUC PACKING CO	8687	*	*	*	*	*	
CANTON LOCKER SLAUGHTER HOUSE	8689A	*	*	*	*	*	
POLO LOCKER SYSTEM INC	8695	*	*			*	
NEW FRANKLIN LOCKER SERVICE	8696	*	*	*	*	*	
UHRIG'S SLAUGHTER HOUSE	8697	*	*				
WRIGHT CITY MEAT CO	8699	*	*			*	
WEBER MEAT SERVICE	8702	*	*	*	*	*	
WARNER LOCKER INC	8703	*				*	
PRINCETON FOOD SERVICE	8705	*	*	*	*	*	
OYLER'S LOCKER SERVICE	8706	*		*			
NOVINGER FOOD LOCKER	8707	*	*	*	*	*	
HALE LOCKER PLANT	8710	*	*			*	
DON'S PLACE	8714	*	*	*	*	*	
WENTZVILLE CATTLE INVESTMENT CO	8715	*	*		*	*	
BOUCHALRT PACKING CO	8716	*					
KELLER PROCESSING SERVICE	8717	*	*	*	*	*	
GROVES PACKING CO	8724	*	*			*	
GOLDEN CITY MEAT CO	8725	*	*	*		*	
ALMA COOP LOCKER ASSN	8728	*	*	*		*	
BOOMER PACKING CO INC	8729	*	*	*	*	*	
LEWISTOWN LOCKER	8730	*	*	*		*	
UPTOWN SLAUGHTER HOUSE	8731	*	*	*		*	
PLEASANT HILL MEAT CO	8734	*	*				
MAUPIN PROCESSING PLANT	8735	*	*		*		
ADRIAN MEATS	8737	*	*	*		*	
STONYHILL MEAT	8738	*	*	*	*	*	
BAKER PACKING CO	8743	*	*	*		*	
SCHOOL OF THE OZARKS	8745	*	*			*	
GLASGOW LOCKER PLANT	8747	*	*	*		*	
HAMILTON LOCKER	8748	*	*	*		*	
THERIAULT'S ABATTOIR INC	8772	*	*			*	
CLARK PACKING CO INC	8799					*	
MONROEVILLE PACKING CO	8850	*	*	*	*	*	
AMFRAN PACKING CO INC E	8861						*
OXFORD ABATTOIR	8866	*	*	*	*		
JOHN F MARTIN & SONS INC	8888	*	*	*		*	
WEST DOVER BUTCHER SHOP	8892	*	*				
GREGGWOOD FARM	8901					*	
ERDMAN SUPERMARKETS INC	8905	*	*	*		*	
MCDONALD'S FOOD MARKET	8915	*				*	
ST JOSEPH MEAT MARKET INC	8916	*	*	*		*	
FROZ-N-FOODS CO	8917	*	*	*	*	*	
CORDHAMER'S FOOD MARKET	8920	*				*	
RUCK'S MEAT PROCESSING CENTER INC	8921	*	*	*	*	*	
READ'S PROCESSING SERVICE	8922	*				*	
INDIEKE'S MEATS	8927	*	*	*		*	
RAPIDS LOCKER	8928	*	*	*	*	*	
PLANTENBERG MARKET INC	8931	*	*			*	
KETTERS MEATS	8937	*	*	*	*	*	
CARLSON MEAT PROCESSING INC	8948	*	*	*			
DAVE & TED'S LOCKERS INC	8950	*	*	*	*	*	

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
FERGUS LOCKER PLANT	8952	(*)	(*)			(*)	
LAKELAND MEATS	8953	(*)	(*)	(*)		(*)	
SPIKES LOCKERS	8954	(*)	(*)				
HERGES MEAT MARKET INC	8959	(*)	(*)	(*)	(*)	(*)	
CITY MEAT MARKET	8960	(*)	(*)			(*)	
NEW MUNICH LOCKER PLANT	8961	(*)	(*)			(*)	
PETER'S FOOD MARKET	8963	(*)	(*)			(*)	
FORSTER PACKING CO INC	8966	(*)	(*)	(*)		(*)	
PARROT PACKING CO INC	8968	(*)	(*)			(*)	
DREWES FROZEN FOOD CENTER	8971	(*)	(*)	(*)	(*)	(*)	
FOSSTON CO-OP ASSN LOCKER DEPT	8974	(*)	(*)			(*)	
CITY MEAT MARKET	8975	(*)	(*)	(*)		(*)	
LYNCH'S FOODS	8976	(*)	(*)	(*)		(*)	
GENEVA MEATS & PROCESSING	8979	(*)	(*)	(*)	(*)		
GREENWALD LOCKER PLANT	8982	(*)	(*)				
DELFT BLUE-PROVIMI INC	8984					(*)	
JOPPKU INC	8988	(*)		(*)	(*)	(*)	
WIDBOOM MEAT SERVICE	8989	(*)	(*)	(*)		(*)	
COUNTRY SIDE MEATS	9003	(*)	(*)	(*)	(*)	(*)	
CALIFORNIA STATE UNIV MEAT LABORATORY	9004	(*)		(*)		(*)	
JOHANSEN'S MEAT MARKET	9008	(*)	(*)	(*)	(*)	(*)	
MOXON'S GOLD STAR MEAT	9024	(*)	(*)	(*)	(*)	(*)	
MARIN MEAT CO	9025	(*)	(*)	(*)			
SWINGLE MEAT CO	9032	(*)		(*)	(*)	(*)	
THOS G EVART MEAT CO	9049	(*)	(*)	(*)	(*)	(*)	
MUDOC MEAT PACKERS	9053	(*)		(*)	(*)	(*)	
HAMPLER WHOLESALE MEATS INC	9065	(*)	(*)			(*)	
THOMASTON BEEF & VEAL INC	9069	(*)	(*)	(*)	(*)	(*)	
SMITH'S MEAT PROCESSING CO	9073	(*)	(*)	(*)		(*)	
SNOW HILL PROCESSING PLANT	9075	(*)	(*)			(*)	
GOLD KIST INC	9084	(*)	(*)			(*)	
SNAPPS FERRY PROCESSING CO	9085	(*)	(*)			(*)	
W R DELOZIER SAUSAGE CO	9086	(*)	(*)			(*)	
LAUDERDALE FARMS CO	9095	(*)		(*)	(*)	(*)	
CARTERS VALLEY PACKING CO	9107	(*)		(*)	(*)	(*)	
NORTH GEORGIA PROCESSING	9108	(*)	(*)	(*)	(*)	(*)	
ELLIOTT & SON'S	9111	(*)				(*)	
FAIRPLAY MEAT PROCESSING INC	9112	(*)				(*)	
SCOTT MEAT CO	9124	(*)	(*)	(*)	(*)	(*)	
JACKSON PACKING CO	9130	(*)				(*)	
AVCO MEAT CO INC	9131	(*)					
JUSTICE PACKING CO	9136	(*)	(*)				
STEVE BROOKS MEATS	9139	(*)					
SOWEGA MEAT CO	9142	(*)	(*)	(*)	(*)	(*)	
SOUTHERN ABATTOIR MEAT SUPPLY CO	9143	(*)	(*)			(*)	
MICKEY'S MEATS	9144	(*)			(*)		
BILL OPELL'S MEAT PROCESSING	9148	(*)	(*)	(*)		(*)	
MCLENDON MEAT CO	9159	(*)		(*)	(*)	(*)	
SCOTT MEAT PACKERS INC	9160	(*)	(*)			(*)	
SHULL SAUSAGE CO INC	9161					(*)	
LAKEVIEW PACKING CO	9166	(*)				(*)	
MCCAULEY'S CUSTOM MEATS & SERVICES	9173	(*)	(*)		(*)	(*)	
PASTURES INC E	9174						(*)
CATTLEMAN PACKING CO	9177	(*)				(*)	
CARROLL PACKING CO	9185	(*)	(*)			(*)	
RIVER ROUTE PACKING PLANT INC	9186	(*)					
PARIS MEAT PROCESSING CO	9187	(*)	(*)		(*)	(*)	
FARM FRESH MEATS INC	9189	(*)	(*)			(*)	
CLIATT-WELLS COUNTRY STYLE WHOLE HOG SAUSAGE	9190					(*)	
HAMILTON PACKING CO INC	9191	(*)				(*)	
UNIVERSITY OF TENNESSE MEAT LABORATORY	9193	(*)		(*)		(*)	
SOUTHEASTERN MEAT PROCESSING	9196	(*)	(*)		(*)	(*)	
TWIN STATE COLD STORAGE	9199	(*)				(*)	
HILL MEAT CO INC	9201	(*)	(*)	(*)		(*)	
DELTA MEAT INC	9209	(*)	(*)	(*)	(*)	(*)	
SANTIAM MEAT PACKERS	9220	(*)	(*)	(*)	(*)	(*)	
OREGON STATE UNIV MEAT SCIENCE LABORATORY	9223	(*)		(*)		(*)	
CARLTON PACKING CO	9228	(*)	(*)	(*)		(*)	

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
DAYTON MEAT CO	9230	*	*	*	*	*	
HABERMANS MEAT SERVICE	9232	*	*	*	*	*	
STAFFORD'S MEATS	9233	*	*	*	*	*	
JACOBSMUHLENS MEATS	9234	*	*	*	*	*	
A & B MEAT PACKING	9239	*	*	*	*	*	
POPE'S MERRILL MEAT CO	9240	*	*	*		*	
FARMER PACKING CO	9243	*	*	*	*	*	
HORIZON PACKING CO	9245	*	*				
BOYER MEAT CO	9246	*	*	*	*	*	
LOA MEATS INC	9248	*		*		*	
ERDMAN PACKING CO	9249	*	*	*	*	*	
TRI VALLEY MEAT CO	9251	*	*	*	*	*	
MOHAWK PACKING CO	9252	*	*	*	*	*	
SPRINGFIELD SLAUGHTER PLANT	9256	*	*	*	*	*	
GATES WAY MEAT CO	9257	*	*	*		*	
MOLALLA MEATS	9263	*	*	*	*	*	
LEE MEAT CO	9264	*	*	*	*	*	
MARKS MEAT CO	9265	*	*	*	*	*	
IOWA BEEF PROCESSORS INC	9268	*					
MT ANGEL MEAT CO	9270	*	*	*	*	*	
OREGON STATE PENITENTIARY ANNEX	9272	*				*	
INDEPENDENCE CUSTOM MEAT SERVICE	9273	*	*	*	*	*	
MCKILLIP BROS MEAT CO INC	9274	*				*	
BOSTON'S BEEF HOUSE INC	9275	*	*	*			
K BAR K RANCH MEATS	9276	*				*	
HOPKINS WHOLESALE MEATS	9277	*	*	*		*	
JOHN DAY VALLEY PACKING CO	9286	*	*	*	*	*	
D & L MEAT CO	9287	*	*	*	*	*	
WILDER MEAT CO	9289	*	*	*	*	*	
CROOKED RIVER MEAT CO	9291	*	*	*	*	*	
ORIO MEAT CO E	9294					*	
WALT'S CUSTOM SLAUGTERING	9300	*	*	*	*	*	
TERRY BROS INC	9315	*	*	*		*	
VERNS MOSES LAKE MEATS	9318	*	*	*		*	
CURCIO'S MEAT CO	9319	*	*		*	*	
WASHINGTON STATE UNIV MEAT SCIENCE LAB	9322	*	*	*		*	
FONDIS PACKING & CATTLE CO	9324	*	*	*		*	
LAMPAERT MEATS	9325	*	*	*	*	*	
OWENS PACKING CO	9331	*	*			*	
COLVILLE MEAT PROCESSOR'S	9334	*	*	*		*	
MC INRAY MEAT CO	9335	*	*				
WENATCHEE MEAT PACKING INC	9338	*	*			*	
MIDWAY MEATS	9347	*	*	*		*	
COOS COUNTY FARM	9350	*				*	
DWIGHT GORDON	9351	*	*	*		*	
FAIR VIEW FARM	9353	*	*	*		*	
RUDOLPH MAMULA	9357	*	*	*	*	*	
HARVEY E DELP	9359	*	*			*	
BALTHASER'S MEAT MARKET INC	9360	*	*	*	*	*	
MERVIN F MOYER	9363	*					
GRETTLER MEAT PACKERS	9366	*	*	*	*	*	
ALLENS MILLS FRESH MEATS	9367	*	*	*		*	
MIKE ZRILE MEAT	9368		*				
ALEX FROEHLICH PACKING CO	9369	*	*	*		*	
J T BARTON	9371	*	*	*		*	
MUTZABAUGH'S SLAUGHTER HOUSE	9372	*	*	*	*	*	
H L PEACHEY JR	9373	*	*	*		*	
GREGORY'S TROY MEAT PROCESSING CO INC	9374	*	*	*		*	
STOCKDALE MEAT & PROVISION	9375	*				*	
WILLIAMSON'S WHOLESALE MEATS INC	9376					*	
HENNINGER'S MEAT MARKET	9377	*	*	*		*	
BIERLY MEAT MARKET	9380	*	*	*		*	
ELMO MANIERI'S MEATS	9381	*	*	*		*	
MIKE'S PACKING CO	9382	*	*	*		*	
WARRINGTON PACKING CO INC	9384	*	*			*	
GREEN VALLEY PACKING CO	9385	*	*	*	*	*	
ADAM BUTZ JR	9389	*	*			*	
SHAW BROS INC	9390	*	*	*		*	

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
ROCKINGHAM COUNTY FARM	9395	*				*	
DIXON'S MEATS	9398	*	*	*		*	
BRISTOL BEEF CO INC	9399	*	*	*	*	*	
J V TAYLOR INC	9400	*	*				
BATTLES MEAT PROCESSING PLANT	9401	*	*	*	*	*	
JOE DEFELICE & SONS	9402	*	*	*		*	
GILLO BROS	9403	*	*	*		*	
T P CUNNINGHAM MEATS	9410	*	*	*	*	*	
SHUPES HOME DRESSED MEATS	9413	*	*			*	
GINO GIULIANI	9414	*	*	*	*	*	
EDWARD GALVANEK & SONS	9415	*	*	*	*	*	
FRANCONIA MEATS	9417	*	*	*	*	*	
LOVE WELLS COUNTRY MARKET	9419	*	*	*		*	
RICE'S MEAT MARKET	9420	*	*	*	*	*	
KVERAGAS MEAT PLANT	9422	*	*	*		*	
STEELY MEATS	9423	*	*	*		*	
PATH VALLEY MEATS	9425	*	*	*		*	
HAROLD WENTWORTH	9428	*	*	*	*	*	
ZECKMAN'S BUTCHER SHOP	9430	*	*	*		*	
EDWARDS BROS PACKING CO	9431	*	*				
YAMBROVICH MEATS	9435	*	*	*		*	
RUPERT'S BUTCHER SHOP	9437	*	*	*	*	*	
THREE SONS MEAT MARKET	9438	*	*	*		*	
BURKHOLDER'S MEAT MARKET	9440	*	*				
GROFF MEATS INC	9442	*	*	*		*	
KREISL CO INC	9444	*					
SMITH'S SUPER MARKET INC	9445	*	*	*		*	
GRILL'S BUTCHER SHOP	9448	*					
GEORGE N BYERLY	9450	*	*	*		*	
SHAMOKIN PACKING CO	9451	*	*	*		*	
GIORDANO SAUSAGE	9456		*	*	*	*	
RENDULIC PACKING CO	9457	*			*		
ARTHUR B WENGER	9459	*	*			*	
R E HERSHEY INC	9464	*	*	*			
HERFURTH BROS MEAT CO	9465	*	*	*		*	
MYERS BROTHERS	9469	*	*	*		*	
RANCK'S MEAT MARKET	9473	*	*				
U S PENITENTIARY	9474	*		*		*	
ESPEY'S MEAT MARKET	9482	*	*	*	*	*	
R V WANTZ & SONS	9483					*	
WALTER Z DILLON	9484	*	*	*		*	
WERRY PROVISION	9489	*	*	*	*	*	
MARK R BUCHER	9492	*	*	*		*	
CHRISTMAN & FOX	9494	*	*			*	
THORNTON MEATS	9497	*	*	*	*	*	
INDIANA SLAUGHTERING CO	9498	*	*	*		*	
WINDSOR MEAT MARKET	9500	*	*	*	*	*	
STONEBRIDGE FARM BUTCHER SHOP INC	9509	*	*	*		*	
FRED E SHIVELY	9511	*	*	*		*	
R P HOWRY	9513	*	*	*		*	
LEIDY'S INC	9520	*	*			*	
WEISS PACKING CO INC	9528	*	*	*	*	*	
EAST CARSON PACKING CO	9529	*	*	*			
PENNER PROVISION CO	9535	*					
BRIGHT BYERLY	9536	*	*			*	
KEN WEAVER MEATS	9538	*	*			*	
CLYDE R ALBERTSON	9540	*	*	*		*	
ANDERSON QUALITY MEAT MARKET	9541	*	*	*	*	*	
LEMAY & SONS BEEF	9542	*	*	*		*	
EMERSON KNIGHT	9544	*	*			*	
UNIVERSITY OF NEW HAMPSHIRE MEAT LABORATORY	9546	*		*		*	
EZRA W MARTIN CO	9547					*	
WAYNE NELL & SONS MEATS	9548	*	*	*	*	*	
JOHN J KOHLER	9549	*	*			*	
BEACH MEAT MARKET	9550	*	*			*	
GREAT VALLEY MEAT MKT DOMINIC MEOLI	9557	*	*	*	*		
C P RHOADES & SON INC	9559	*	*	*			
FORREST D KISTLER	9561	*	*				

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
GERALD ANDERSON	9562	*	*	*		*	
CHARLES T HEARD & CO	9563	*		*			
PUTNAK PACKING CO	9564	*	*			*	
MYERS MEAT	9565	*		*		*	
PERRY PACKING	9566	*	*	*	*	*	
PIERCE CUSTOM SLAUGHTER CO	9567	*	*	*	*	*	
CLOVERBLOOM FARM MARKET	9570	*	*			*	
FICHERA'S MEATS INC	9576	*	*	*	*	*	
GOULDEY & SONS INC	9577	*	*	*	*	*	
O J HYNES	9579	*	*	*		*	
GOURLEY PACKING CO INC	9580	*	*	*		*	
LIVINGSTON PACKING CO	9581	*	*	*		*	
JONES ABATTOIR	9584	*	*	*	*	*	
LOUIS KLINE INC	9589	*	*	*	*	*	
GEORGE'S MEATS	9590	*	*			*	
PRIM PACKING CO	9592	*	*	*		*	
CONGENS AQUILANTE	9603	*	*	*			
HAROLD A UGRS	9605	*	*	*		*	
DOWNINGTOWN WHOLESALE MEATS	9606	*	*	*		*	
FRANK ESPOSITO & SONS	9607	*	*				
GOODHART MEATS	9609	*	*	*		*	
LUKON MEATS INC	9616	*	*	*		*	
MOCCIO PACKING	9618	*	*				
GEORGE'S MEAT MARKET INC	9620	*	*	*	*	*	
CHARLES J PUDLINER	9622	*	*	*	*	*	
RHODES' MEAT MARKET	9623	*	*	*		*	
STOLTZFUS LOCKER & IGS FOOD MARKET	9625	*	*				
EBLING'S MEAT MARKET	9630	*	*	*		*	
PIFFERETTI PACKING CO	9631	*	*	*	*	*	
BURKHOLDER MEAT PRODUCTS	9632	*	*	*	*	*	
JONATHAN L KING	9633	*	*	*		*	
TURNER FARMS INC	9634	*	*			*	
R D KELLY MEAT PACKING	9635	*	*	*		*	
M LEPIDI & SONS INC	9636	*	*	*		*	
KRALL'S MEAT MARKET	9638	*	*	*		*	
F & S MEATS	9639	*	*	*		*	
GLEN J ROSENBERRY	9640	*	*	*		*	
ALBA'S MEAT MARKET	9643	*	*				
MRS EDITH ONDILLA	9644	*	*			*	
SHAFFER'S ABATTOIR INC	9645	*	*	*			
YOST QUALITY MEATS	9646	*	*	*	*	*	
WATSON'S HOME DRESSED MEATS	9647	*	*	*		*	
JOSEPH VENEZIA DRESSED BEEF	9666	*	*				
BALDERSTON BROS	9670	*	*	*			
CATELLI INC	9671				*		
PRINCE'S HOME DRESSED MEATS	9673	*		*		*	
FIERRO'S FOOD MARKET INC	9674	*					
CRISSMAN INC	9679	*	*	*	*	*	
COHICK BROS MEAT PACKERS INC	9682	*	*	*		*	
PAINTER'S MEAT PRODUCTS	9683	*	*	*		*	
KECK'S MEAT PLANT	9684	*	*	*		*	
FETTEROLF'S MEAT MARKET	9685	*	*	*		*	
MARK BOWMAN	9686	*	*			*	
LEE BIXLER	9687	*	*	*		*	
BOYER'S MEATS	9688	*	*			*	
KOLB'S MEAT MARKET	9689	*	*	*	*	*	
CARL VENEZIA MEATS	9693	*	*	*			
PAUL H SCHNECK	9695	*	*	*	*	*	
ROBERT L BINGMAN	9696	*	*	*		*	
SMITH'S MEATS	9697	*	*	*			
HOLLAND BROS MEATS	9701	*	*	*		*	
ALFERY'S SAUSAGE CO INC #2	9702	*	*	*	*	*	
SPRINGFIELD MEAT CO	9704	*	*	*			
BARINGER BROS	9706	*	*	*		*	
HAGERS MEAT MARKET	9707	*	*	*			
HANSON'S FREEZER MEATS	9711	*	*	*	*	*	
COFFARO CUSTOM BUTCHERING	9712	*	*	*	*	*	
THOMA'S MEAT MARKET	9714	*	*	*	*	*	

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
DAVE FINE MEAT PACKER INC	9715	(*)	(*)	(*)	(*)	(*)	
LOUTSION PACKING CO INC	9716	(*)	(*)	(*)	(*)	(*)	
LEE GASHEL & SONS INC	9717	(*)	(*)	(*)		(*)	
AMERICAN FOODS INC	9718	(*)	(*)	(*)		(*)	
STEALE & PACKING CO	9719	(*)	(*)	(*)		(*)	
SMITH'S FROZEN FOOD	9720	(*)	(*)	(*)	(*)	(*)	
HEINNICKEL FARMS INC	9725	(*)	(*)	(*)		(*)	
WALTER'S MEATS	9726	(*)	(*)	(*)		(*)	
HILLCREST PACKING CO	9747	(*)	(*)	(*)	(*)	(*)	
JOSEPH BENZAK JR	9753	(*)	(*)	(*)	(*)	(*)	
LEMHENEY BUTCHER SHOP INC	9755	(*)	(*)	(*)	(*)	(*)	
ROYAL SWAN FOODS INC	9758	(*)	(*)	(*)		(*)	
REHRIG'S QUALITY MEATS INC	9759	(*)	(*)	(*)		(*)	
GILBERT'S MEATS	9762	(*)					
HEINTZELMAN'S MEAT MARKET	9763	(*)	(*)				
DELBERT E HAYDT	9765	(*)				(*)	
WILLIAM MULITSCH	9766					(*)	
JOHN J ELNITSKI	9767	(*)				(*)	
WALTER JURCZAK	9770	(*)	(*)	(*)	(*)	(*)	
ALBERT CARUTH	9776	(*)					
HOWARD W DARLING	9777	(*)			(*)	(*)	
LEONA MEATS	9784	(*)	(*)	(*)		(*)	
J & B MEAT PLANT	9785	(*)	(*)	(*)		(*)	
STEPNIAK BEEF	9786	(*)	(*)	(*)		(*)	
MUSSERS INC	9788	(*)	(*)	(*)	(*)		
YOUNDT BROS	9789	(*)	(*)			(*)	
C H THOMAS SONS INC	9790	(*)				(*)	
AMOS STOLTZFUS	9792	(*)				(*)	
LOCUSTDALE PACKING CO	9799	(*)	(*)	(*)	(*)	(*)	
ALLEN I ROMBERGER	9800	(*)	(*)				
PEZZNER BROTHERS INC	9808	(*)				(*)	
ROBZEN'S INC	9809	(*)	(*)				
HOCH'S FARMS & MARKETS INC	9810	(*)					
TWIN PINE FARM	9814	(*)	(*)			(*)	
WINTER GARDENS ABATTOIR	9815	(*)	(*)	(*)		(*)	
J A HARGLEROAD & CO	9816	(*)	(*)	(*)	(*)	(*)	
THE COUNTRY BUTCHER SHOP	9819	(*)	(*)	(*)	(*)	(*)	
HERVITZ PACKING CO	9821	(*)	(*)				
LAUDERMILCH MEATS	9623	(*)				(*)	
PHARES A LONGNECKER & SONS INC	9827	(*)					
CLOVER MEAT PACKING INC	9828	(*)	(*)			(*)	
N S TROUTMAN & SONS	9832	(*)	(*)	(*)		(*)	
MIKE LEVCHIK	9834	(*)	(*)	(*)		(*)	
GLENN J BEASTON	9835	(*)	(*)			(*)	
NORMAN ZIMMERMAN & SON	9836	(*)					
HENRY S ZIMMERMAN	9837	(*)				(*)	
GEORGE E GARNER	9838	(*)	(*)	(*)		(*)	
GLENN E HENRY	9841	(*)	(*)	(*)	(*)	(*)	
FRANCIS BONANNO PACKING CO	9842	(*)	(*)	(*)	(*)	(*)	
HUGHEY (BOBBY) REYANDT III	9843	(*)	(*)	(*)	(*)	(*)	
PENNSYLVANIA STATE UNIV MEATS LABORATORY	9844	(*)	(*)	(*)		(*)	
CHARLES YOUNDT & SONS	9846	(*)				(*)	
FENTONS MEATS	9847	(*)	(*)	(*)		(*)	
OLIJNYK BROTHERS	9848	(*)	(*)	(*)		(*)	
PALACE MARKET INC	9880	(*)	(*)			(*)	
KERN COUNTY SHERIFF	9891	(*)				(*)	
CALIFORNIA STATE UNIV FRESNO MEAT LABORATORY	9892	(*)	(*)	(*)		(*)	
CAVALIER EXPORT CO E	9910						(*)
COMMITTEE ON MASONIC HOMES	9913	(*)	(*)			(*)	
MCGUIRE MEATS	9915	(*)	(*)			(*)	
DONALD M SEIDLE	9921	(*)	(*)	(*)		(*)	
NEWPORT PACKING CO	9926	(*)	(*)	(*)	(*)		
METZGER MEAT	9927	(*)	(*)	(*)		(*)	
SUGAR TREE MEAT PROCESSING INC	9943	(*)				(*)	
SCHALLER'S SLAUGHTERHOUSE	9955	(*)	(*)	(*)	(*)	(*)	
NASER PACKING CO	9958	(*)	(*)	(*)	(*)	(*)	
JOHN M BONHAM & SONS	9971	(*)	(*)	(*)		(*)	
AMOS BARELL & SONS	9974	(*)	(*)	(*)		(*)	

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
MINOR ACRES PACKING CO	9983	(*)	(*)	(*)		(*)	
BECK-WHITE SLAUGHTER & PROCESSING	12600	(*)				(*)	
BARTON MEAT PROC	12601	(*)				(*)	

Done at Washington, D.C., on September 18, 1978.

SYDNEY J. BUTLER,
Acting Administrator,
Food Safety and Quality Service.

[FR Doc. 78-26627 Filed 9-25-78; 8:45 am]

[3410-11]

Forest Service

REFORESTATION AND TIMBER STAND IMPROVEMENT POLICY

Modification

AGENCY: Forest Service, USDA.

ACTION: Proposed policy.

SUMMARY: This is a Forest Service proposed policy modification for reforestation and timber stand improvement (TSI). The National Forest Management Act of 1976, Pub. L. 94-588, states it is the policy of the Congress that National Forest land be maintained in appropriate forest cover, degree of stocking, rate of growth, and condition of stand to secure the maximum benefits for all resource uses. The act authorizes reforestation and TSI funding not only for timber production, but for other resource uses. The act also requires certain reports be submitted to the Congress annually, including the total acreage of needed work and estimated costs of planned work, and certification of completed work. This proposal includes Forest Service Manual (FSM) changes.

Copies of the proposed Manual changes, along with field instructions and report formats, may be reviewed at all Forest Service Regional Headquarters.

DATE: Comments must be received on or before November 13, 1978.

ADDRESS: Submit comments to: John R. McGuire, Chief, Forest Service, Department of Agriculture, P.O. Box 2417, Washington, D.C. 20013.

All written submissions made pursuant to this notice will be available for public inspection in the Timber Management Staff, South Agriculture Building, Room 3207, Washington, D.C., during regular business hours.

FOR FURTHER INFORMATION, CONTACT:

Robert E. Gillespie, Timber Management Staff, Forest Service, Department of Agriculture, P.O. Box 2417, Washington, D.C. 20013, 202-447-7495

2472—REFORESTATION

Reforestation includes tree planting and seeding, and measures to obtain natural regeneration. The work is done on National Forests to produce timber and other forest products, protect watersheds, prevent erosion, and improve other social and economic values of the forests, such as wildlife, recreation and natural beauty.

2472.01—Authority. Basic authority for reforestation is given in the following acts (FSM 1021):

(1) Reforestation on National Forest lands:

(a) Organic Administration Act of June 4, 1897 (30 Stat. 34, as supplemented and amended; 16 U.S.C. 473-478, 479-482, 551).

(b) Knutson-Vandenberg Act of June 9, 1930 (46 Stat. 527, as amended; 16 U.S.C. 576-576b).

(c) Multiple-Use Sustained-Yield Act of June 12, 1960 (74 Stat. 215, as amended; 16 U.S.C. 528-531).

(d) Supplemental National Forest Restoration Fund Act of September 18, 1972 (86 Stat. 678; 16 U.S.C. 576c-576e).

(e) Forest and Rangeland Renewable Resources Planning Act of August 17, 1974 (88 Stat. 476, as amended; 16 U.S.C. 1600-1614).

(f) National Forest Management Act of 1976 (90 Stat. 2949; 16 U.S.C. 1600).

(g) Bankhead-Jones Farm Tenant Act of July 22, 1937 (50 Stat. 525, as amended; 7 U.S.C. 1010-1012).

(2) Reforestation on National Forest lands and other lands under the administration or control of the Forest Service—Anderson-Mansfield Reforestation and Revegetation Act of October 11, 1949 (63 Stat. 762; 16 U.S.C. 581j, 581k).

2472.02—Objectives. As stated in the National Forest Management Act, the objectives on all forested lands in the National Forest System shall be to: (1) Maintain an appropriate forest cover with species of trees, degree of stocking, rate of growth, and conditions of stand designed to secure maximum benefits of multiple use sustained yield management.

Where:

(a) Forest land is land at least 10 percent occupied by forest tree species of any size, or land formerly having had such tree cover and not devoted to nonforest use.

(b) Appropriate forest cover is forested lands composed of a variety of plant communities similar to those existing in an area, distributed in a manner reflecting their natural occurrence. It includes seral and climax stages. Forbs, grasses, and shrubs in their proper ratios are important components of the forest cover.

(c) Trees are woody perennial plants typically large when mature and with a single, well-defined stem carrying a more or less definite crown.

(d) Degree of stocking is the number of trees on a given area in relation to what is considered to be the optimum to meet multiple use management objectives.

(e) Rate of growth is the increase in diameter, basal area, height, or volume of individual trees or stands in a given time period.

(f) Manipulation of stocking is designed to secure maximum benefits of multiple use sustained yield management for individual stands as determined by silvicultural prescriptions which consider all resources.

(2) Improve the quality and yield of new timber stands by controlling the source and genetic quality of seeds and trees used on reforestation projects.

(3) Develop and demonstrate successful reforestation methods and techniques and resulting benefits which will serve as an encouragement to private landowners.

2472.03—Policy. (1) Until such time as a unit of the National Forest System is managed under plans developed in accordance with the National Forest Management Act, the management of such unit may continue under existing land and resource plans as long as the plan is not in conflict with the National Forest Management Act.

(2) Reforestation for all resource uses and/or activities will be based on silvicultural prescriptions to meet specific resource and site requirements.

(3) Areas to be reforested with appropriated or Knutson-Vandenberg (K-V) Act funds shall be separated into two categories of reforestation needs as follows:

Backlog.—Consists of all acres in need of reforestation, as of July 1, 1975, by planting, seeding, and site preparation for natural regeneration for any purpose except planting ornamentals at developed sites. This definition was established to provide a common basis for determination and reporting of backlog to Congress as required by the Accelerated Reforestation Act of 1972.

Current.—Consists of all acreas in need of reforestation which have become understocked due to natural or manmade causes, or regeneration cutting since July 1, 1975.

(4) All reforestation backlog areas will be programed for reforestation (by natural or artificial means) by October 1, 1984. Forest Supervisors will prepare statements explaining why any backlog areas cannot be reforested by that time. Reasons for noncompliance with the 1984 deadline are lack of access to an area, lack of technology to reforest an area, pending classification of wilderness study areas, nonforest use, or lack of funds. All regeneration areas are to be examined for certification as meeting minimum reforestation standards established by the Regional Forester for timber or other resource objectives.

(5) Regeneration examinations will be made, as a minimum, following the first and third growing seasons after

reforestation treatment. If the area fails to meet these standards after either the first (except for natural regeneration) or third year exam, it will be returned to current needs and promptly scheduled for additional corrective treatment as necessary.

(6) Because the current needs created in 1 year normally cannot all be reforested in the following year, the current needs inventory will be greater than the program for any 1 year. After 1984 the inventory of needs should be greater than approximately three times the average annual reforestation program.

(7) As stated in the National Forest Management Act of 1976, regeneration cutting will not be done if reforestation cannot be assured within 5 years. The reforestation method—namely, planting, seeding, or natural regeneration—must be prescribed that will accomplish reforestation objectives within the maximum time constraints. In shelterwood and seed tree systems, the regeneration period shall begin with the seed cut. The 3-year certification will begin with the removal cut.

(8) Take full advantage of the K-V Act as amended (FSM 2477) to reforest timber sale areas.

(9) Reforestation of sale areas which cannot be financed with K-V funds should compete on an equal basis with other forest lands for use of appropriated reforestation funds as long as the 5-year time constraint is met.

(10) Areas to be reforested with appropriated funds should be programed to action plans on an individual resource priority basis. Wherever possible and practicable, values should be assigned for the benefits and returns for all resource purposes and uses, and be included in the economic analysis. If this is not feasible, they must be given full and appropriate consideration as intangible values and benefits. The Regional Forester will develop guidelines for assessing intangible benefits based on Washington Office advice.

(11) Reforestation primarily for purposes other than timber production, such as for unproductive forest land which may need reforestation for watershed purposes, will be financed from the same appropriated funds as timber reforestation needs and activities, but will be identified under appropriate functional codes according to procedures established in 6553.12b.

(12) Regional Foresters will comply with FSM 2496 instructions for reporting reforestation "backlog" and "current" acreage treatment needs, schedules for completion of treatments, and funding requests to implement these treatments. Needs reported shall include funds necessary to prepare sites, plant trees, build fences, or otherwise treat to exclude livestock and adverse wildlife from regeneration areas, and to otherwise improve growing forests to secure planned production of trees and other multiple use values.

(13) Seed and seedlings of exotic tree species or of native species from an offsite source (zone), will not be used to reforest an area or site. Two exceptions to this policy are the use of seed or seedlings of nonindigenous species or seed origins:

(a) Which, as a result of scientifically conducted tests, have proven adaptable to the area and site in question and are capable of producing the kind and quality of trees desired on the area to secure maximum multiple use benefits.

(b) Which have proven adaptable in tests or administrative studies carefully planned and conducted by, or in cooperation with research or knowledgeable scientists outside the Forest Service.

(14) Encourage States and private organizations to produce all the seed and seedlings they need to reforest non-Federal lands. Sell seed and seedlings to political subdivisions of States only through State foresters and when surplus to Forest Service needs.

(15) Utilize contractual services for site preparation, planting, seeding, regeneration release, and seed procurement to the fullest extent practicable where effective and efficient. Planning and administration of these activities should be done by Forest officers. Force account and contract work must be done to the same quality standards.

(16) Provide for advance review by appropriate State and Federal agencies for (a) doing any work such as animal control or (b) using chemical pesticides that are subject to State or Federal regulations (FSM 5203.52). Animal pest control activities must be done in accordance with current instructions on pesticide use in cooperation with the U.S. Fish and Wildlife Service.

(17) Reforestation monies not expended during the fiscal year in which they were appropriated may be carried over to the following fiscal year provided identified targets are attached to the funds. Otherwise they will be transferred to the Washington Office for further allocation.

(18) Inform minorities and women about the opportunities in contracting for reforestation work.

2476—Timber Stand Improvement

2476.01—Authority. Basic authority for timber stand improvement operations on the National Forests is given in regulations 36 CFR 223.3 and 36 CFR 223.11 and in the following Acts: (FSM 1021)

(1) Organic Administration Act of June 4, 1897 (30 Stat. 34, as supplemented and amended; 16 U.S.C. 473-478, 479-482, 551).

(2) Knutson-Vandenberg Act of June 9, 1930 (46 Stat. 527, as amended; 16 U.S.C. 576-576b).

(3) Multiple-Use Sustained-Yield Act of June 12, 1960 (74 Stat. 215, as amended; 16 U.S.C. 528-531).

(4) Forest and Rangeland Renewable Resources Planning Act of August 17, 1974 (88 Stat. 476, as amended; 16 U.S.C. 1600-1614).

(5) National Forest Management Act of October 22, 1976 (90 Stat. 2949; 16 U.S.C. 1600).

2476.02—Objectives. (1) Design silvicultural treatments to insure that all forested land is maintained in appropriate forest cover with species of trees, degree of stocking, rate of growth, and conditions of stand designed to secure the maximum benefit of Multiple Use Management. Definition in FSM 2472.02.

(2) Increase the growth rate and/or improve the quality of trees by cultural treatments in young timber stands consistent with multiple use sustained yield management objectives.

(3) Prevent damage to trees by insects, diseases, drought, windthrow, and other causes. Prevent the buildup and spread of tree diseases and harmful insects by maintaining a diversity of plant and animal communities similar to that existing in the area. Maintain a high level of tree vigor, proper stand densities, and desirable plant species.

(4) Treat stands to maintain or improve aesthetics, recreation, fish and wildlife habitat, range, timber, soil, watershed, and other National Forest values, to the extent recognized in land management plans for the areas. Treatments must be consistent with multiple use sustained yield management objectives.

(5) Based on existing scientific knowledge, develop and demonstrate the benefit of improved methods and techniques of timber stand improvement for all resource purposes as an encouragement to private landowners.

2476.03—Policy. (1) Until such time as a unit of the National Forest System is managed under plans developed in accordance with the National Forest Management Act, the management of such unit may continue under existing land and resource management plans.

(2) Timber stand improvement can be carried out on all forested land to improve multiple use values. Timber stand improvement for purposes other than timber production will be financed from the same appropriation as TSI for timber production, but will be identified under appropriate functional codes in the program-planning budgeting process.

(3) Timber stand improvement for all resource uses and/or activities will be based on cultural treatments prescribed to meet specific resource objectives and site capabilities.

(4) Timber stand improvement objectives for all resource needs and purposes will be accomplished wherever possible by commercial sale of timber and other forest products.

(5) Timber stand improvement will be accomplished by contract to the extent it is the most cost effective method consistent with resource objectives.

(6) Promote utilization of wood and other products that can be salvaged from trees designated to be cut or killed in timber stand improvement operations, unless the dead material has in-place value for other resources.

(7) All silvicultural treatment programs will be based on multiresource needs and priorities.

(8) Follow established procedures for (a) doing any work such as animal control (FSM 2650) or (b) using chemical pesticides that are subject to State or Federal regulations (FSM 5203.52).

(9) Cooperate with private organizations, individuals, and other public agencies whose interests are affected by timber stand improvement operations and associated multiresource management. Appraise them of the nature and purpose of the work and give appropriate recognition to their interests in developing programs and project specifications.

(10) Pruning for quality improvement of timber products on productive forest lands should not be done unless demand-supply analysis demonstrates a need for this type material. Pruning may also need to be carried out to meet other resource objectives.

(11) Forest fertilization should be considered on an operational scale only where soil and hydrologic analysis indicates reasonable assurance of the desired response by the species or forest type concerned, and the treatment is within the multiple use direction for the site.

(12) Take full advantage of the Knutson-Vandenberg Act, as amended by the National Forest Management Act (FSM 1021), to finance needed cultural treatments and multiple use activities on areas cutover by timber sales (FSM 2477.03). TSI of sale areas which cannot be financed with K-V funds will compete on an equal basis with other forest lands for use of appropriated TSI funds.

(13) Inform minorities and women about the opportunities in contracting for timber stand improvement work.

2478—Silvicultural Examinations and Prescriptions

Examining National Forest lands, diagnosing treatment needs, and prescribing the methods, techniques, and timing of silvicultural activities are some of the most important tasks connected with proper management of the National Forests. The examination requires the careful and competent gathering of detailed data on the resources and conditions existing in the area. The prescription requires a high degree of professional skill by a trained silviculturist thoroughly familiar with local climatic and edaphic conditions, the silvics of the species concerned, the land management guidelines pertaining to the area, the management alternatives and resources available, cooperation with other resource specialists, and pertinent Forest Service Manual instructions and policies. It is imperative that these requirements be met in every area in which a silvicultural practice is performed.

2478.01—Authority. Authority to make silvicultural examinations, to diagnose treatment needs and prescribed silvicultural activities is inherently implied in the basic authorizations to harvest timber and carry out reforestation and stand improvement projects on National Forest land (FSM 2401).

2478.02—Objectives. (1) Secure accurate land, vegetation and other resource data on each specific stand area.

(2) Diagnose treatment needs.

(3) Prescribe the specific techniques and timing of the activities necessary to accomplish the silvicultural treatments recommended to meet the land management objective of the area and describe the consequences of feasible alternative treatments.

(4) Develop an orderly program of land treatments.

2478.03—Policy. (1) Silvicultural examinations, diagnosis of treatment needs, and prescription detailing the technique and timing of the silvicultural activity to be used are required procedures prior to initiating any silvicultural treatment on National Forest lands.

(2) Complete, detailed prescriptions with full interdisciplinary input and Environmental Analysis Report (EAR) should only be prepared where stand conditions are not likely to change significantly prior to implementation of the treatment.

(3) Establish regular periodic stand examination and silvicultural diagnosis procedures on a compartment basis in order to maintain orderly program of work.

(4) All silvicultural diagnosis prescriptions will be made or reviewed by trained and certified silviculturists. Regional Foresters are responsible for establishing standards necessary for certification of silviculturists.

Dated: September 15, 1978.

R. A. Resler,
Acting Chief, Forest Service.

[FR Doc. 78-26971 Filed 9-25-78; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[Docket No. 31-654]

AEROLINEAS DOMINICANAS, S.A.

Reassignment of Proceeding

This proceeding has been reassigned from Administrative Law Judge Richard V. Backley to Administrative Law Judge Rudolf Sobernheim. Future communications should be addressed to Judge Sobernheim.

Dated at Washington, D.C., September 19, 1978.

Nahum Litt,
Chief Administrative Law Judge.

[FR Doc. 78-26920 Filed 9-25-78; 8:45 am]

[6320-01]

[Docket No. 33408; Order 78-9-57]

BRANIFF AIRWAYS, INC.

Order To Show Cause Regarding Amendment of Certificate of Public Convenience and Necessity for Route 9

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 13th day of September 1978.

By Order 78-9-56, issued concurrently with this Order, the Board has proposed to realine the domestic route system of Northwest Airlines in a manner which would, among other things, give Northwest unrestricted authority in one minor market—Portland-Tampa [1]—where Braniff also holds restricted authority: One-stop via Dallas/Fort Worth.[2] As discussed in Orders 78-4-109, 77-11-74, and 76-5-101, it is our view that such small markets do not, as a practical matter, present competitive considerations of significant magnitude, and accordingly, we have proposed as a matter of policy to grant unrestricted authority to all carriers authorized to serve such minor markets. The removal of operating restrictions on Braniff as well as the other carriers certificated to serve these minor markets will give these carriers greater flexibility to establish more logical aircraft routings, and may enable the carriers to offer new or additional service in these small markets, thereby benefiting the travel-

[1] A minor market is one with fewer than 20 true O. & D. plus interline connection passengers, a day, or 7,300 per year.

[2] There were 5,360 O. & D. plus connecting passengers in the Portland-Tampa market for the year ended September 30, 1975.

ing public without any significant adverse impact on other carriers.

Upon consideration of the above matters, and consistent with our tentative findings and conclusions set forth in Orders 78-4-109, 77-11-74, and 76-5-101, we tentatively find and conclude that the elimination of restrictions on Braniff's operations in the Portland-Tampa market is required by the public convenience and necessity, and is consistent with the Board's policy of removing restrictions which serve no useful purpose and which are otherwise wasteful and undesirable.

Interested persons will be given 30 days following the date of service of this order to show cause why the tentative findings and conclusions set forth here should not be made final, with answers due within 10 days thereafter. 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 complete with the opportunity for oral cross-examination 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.[3]

Accordingly: 1. We direct all interested persons to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending certificate for Route 9 so as to remove operating restrictions in the Portland-Tampa market;

2. Any interested persons having objection to the issuance of an order making final the proposed findings, conclusions, and certificate amendments and modifications set forth here shall, no later than October 19, 1978, file with the Board and serve upon all persons listed in Appendix I of Order 78-9-56, a statement of objections together with a summary of testimony, statistical data, and such evidence as is expected to be relied upon to support the stated objections; answers to objections shall be filed no later than October 30, 1978;

3. If timely and properly supported objections are filed, full consideration will be accorded the matters or issues raised by the objections before further action is taken by the Board; [4]

4. In the event no objections are filed to any part of this order, we will consider all further procedural steps relating to such part or parts to have been waived, and the case will be submitted to the Board for final action; and

5. We shall serve a copy of this order upon all persons listed in Appendix I of Order 78-9-56.

We shall publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[5]
Secretary.

[FR Doc. 78-26922 Filed 9-25-78; 8:45 am]

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[3] We further conclude that Braniff is a citizen of the United States within the meaning of the act, and is fit, willing, and able to perform properly the air transportation proposed here and to conform to the provisions of the act and the Board's rules, regulations, and requirements.

[4] All motions and/or petitions for reconsideration shall be filed within the period allowed for filing objections and no further motions, requests, or petitions for reconsideration of this order will be entertained.

[5] All members concurred.

[6320-01]

[Docket No. 33409; Order 78-9-58]

EASTERN AIR LINES, INC.

Order To Show Cause Regarding Amendment of Certificate of Public Convenience and Necessity for Route 10

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 13th day of September 1978.

By Order 78-9-56, issued concurrently with this Order, the Board has proposed to realign the domestic route system of Northwest Airlines in a manner which would, among, other things, give Northwest unrestricted authority in one minor market—Portland-Tampa [1]—where Eastern also holds restricted authority: 3 stops via Omaha, St. Louis, and Huntsville.[2] As discussed in Orders 78-4-109, 77-11-74, and 76-5-101, it is our view that such small markets do not, as a practical matter, present competitive considerations of significant magnitude, and accordingly, we have proposed as a matter of policy to grant unrestricted authority to all carriers authorized to serve such minor markets. The removal of operating restrictions on Eastern as well as the other carriers certificated to serve these minor markets will give these carriers greater flexibility to establish more logical aircraft routings, and may enable the carriers to offer new or additional service in these small markets, thereby benefiting the traveling public without any significant adverse impact on other carriers.

Upon consideration of the above matters, and consistent, with our tentative findings and conclusions set forth in Orders 78-4-109, 77-11-74, and 76-5-101, we tentatively find and conclude that the elimination of restrictions on Eastern's operations in the Portland-Tampa market is required by the public convenience and necessity, and is consistent with the Board's policy of removing restricions which serve no useful purpose and which are otherwise wasteful and undesirable.

Interested persons will be given 30 days following the date of service of this order to show cause why the tentative findings and conclusions set forth here should not be made final, with answers due within 10 days thereafter. 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 complete with opportunity for oral cross-examination is requesed, 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.[3]

Accordingly: 1. We direct all interested persons to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending Eastern's certificate for Route 10 so as to remove operating restrictions in the Portland-Tampa market;

2. Any interested persons having objection to the issuance of an order making final the proposed findings, conclusions, and certificate amendments and modifications set forth here shall, no later than October 19, 1978, file with the board and serve upon all persons listed in Appendix I of Order 78-9-56, a statement of objections together with a summary of testimony, statistical data, and such evidence as is expected to be relied upon to support the stated objections; answers to objections shall be filed no later than October 30, 1978;

3. If timely and properly supported objections are filed, full consideration will be accorded the matters or issues raised by the objections before further action is taken by the Board; [4]

4. In the event no objections are filed to any part of ths order, we will consider all further procedural steps relating to such part or parts have

[1] A minor market is one with fewer than 20 true O. & D. plus interline connecting passengers a day, or 7,300 per year.

[2] There were 5,360 O. & D. plus connecting passengers in the Portland-Tampa market for the year ended September 30, 1975.

[3] We further conclude that Eastern is a citizen of the United States within the meaning of the act, and is fit, willing, and able to perform properly the air transportation proposed here and to conform to the provisions of the act and the Board's rules, regulations, and requirements.

[4] All motions and/or petitions for reconsideration shall be filed within the period allowed for filing objections and no further motions, requests, or petitions for reconsideration of this order will be entertained.

been waived, and the case will be submitted to the Board for final action; and

5. We shall serve a copy of this order upon all person listed in Appendix I of Order 78-9-56.

We shall publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[5]
Secretary,

[FR Doc. 78-26923 Filed 9-25-78; 8:45 am]

[6320-01]

[Docket Nos. 32770, etc.; Order 78-9-61]

EASTERN AIR LINES, INC., ET AL.

Order Regarding Atlanta-Memphis Service Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 13th day of September 1978.

On May 13, 1978, Eastern Air Lines applied to suspend service at Memphis for a 5-year period, pursuant to section 401(j) of the act. Eastern claims that its Memphis traffic dropped drastically after the termination of its interchange with Braniff,[1] causing it to suffer losses and to cut its service to one daily roundtrip.[2] It anticipates a net savings once its service is suspended and intends to use the Memphis-Atlanta aircraft in more productive ways elsewhere. Eastern also asserts that the suspension will not inconvenience the public since Delta provides 17 nonstop daily flights while Southern offers 17 one- and two-stop flights and may replace Eastern, since it has applied both for an exemption[3] to operate two nonstop round trips and for a certificate amendment.[4]

On May 19, 1978, Southern Airways filed concurrent applications for an exemption *pendente lite* and permanent certificate authority to operate nonstop Atlanta-Memphis service. It also filed a petition to show cause why its certificate should not be so amended. Southern relies on Eastern's imminent withdrawal, points out that it has operated one-stop service for a number of years, and argues that the market is one of the heaviest traveled in the Southeast and is entitled to the continuance of competitive nonstop service, which it can provide as a supplement to or replacement for Eastern. It points to its proposed schedule, which will fill voids in existing departure times, as a further justification for our grant of its applications. Finally, it believes it can provide two round trips profitably, without subsidy, and that its proposed operations will have no adverse impact on either Eastern or Delta.

Piedmont also seeks a certificate amendment by show cause, removing its one-stop restriction between Atlanta and Memphis, and an exemption *pendente lite* to operate two daily nonstop round trips.[5] It asks that we grant both it and Southern the requested exemption and certificate authority, since the two nonstop round trips both propose will completely replace Eastern's previous service. It further supports its exemption request by stating that it intends to offer a 40-percent off-peak fare, as well as other promotional fares, that it will provide first single-plane service to other markets, and that it can operate the route profitably.

Three other carriers, Braniff, Frontier, and Texas International, have applied for authority to serve Atlanta-Memphis.[6] Braniff and Frontier oppose both Piedmont's and Southern's requests for exemptions, on the grounds that granting them would prejudice their certificate amendment applications. As to the latter, Frontier asks that we process them by show cause proceedings and grant all of them, on a permissive basis. Braniff, on the other hand, opposes our use of show cause procedures on the grounds that there will be competing applicants for this route and that a conclusion may be reached by use of hearing procedures almost as quickly as if we use show cause procedures.

Delta, in its answer to Southern, does not oppose Southern's exemption request or certificate amendment application, provided we contemporaneously suspend or delete Eastern at Memphis and do not authorize additional carriers to provide nonstop service. It does, however, oppose the use of show cause procedures.

Southern replied to the answers of Delta, Eastern, Braniff, Frontier, and Piedmont, by pointing out that in our Order on Reconsideration in the *Improved Authority to Wichita Case*,[7] we said we would be prepared to consider the removal of its restriction in the Memphis-Atlanta market. It views its certificate amendment application as a restriction removal request that can be accomplished through the use of show cause procedures without the need to consider other applications. It argues that there is no legal requirement to consolidate the applications of Braniff, Frontier, and Texas International because no finding of a need for Southern's service in this market is required, and therefore "there will be no binding determination that the lifting of Southern's restriction will as a matter of economic fact preclude entry by other applicants at a future date." However, it is also emphasizes that its exemption and certificate amendment applications are predicated on Eastern's reduction of service to a "bare bones" minimum of one daily round trip.

Southern filed a consolidated answer to Piedmont's pleadings, opposing our grant of Piedmont's request. It notes that, while Piedmont holds Atlanta-Memphis one-stop authority, it has never operated there; it also contradicts Piedmont's claim that it would be the first to offer lower fares, in view of Southern's "Fabulous Fifty," which offer a 50-percent discount.

We have decided to institute the *Atlanta-Memphis Service Investigation*, Docket 33411; to suspend Eastern's authority to serve Memphis for a period of 5 years or until the final decision in the investigation; and to grant the concurrent applications of Southern and Piedmont for exemptions *pendente lite*, permitting them to provide two daily nonstop round trips each between Atlanta and Memphis. We are consolidating into the investigation the following dockets: 32770 (Eastern's suspension request); 32719 (Southern's certificate amendment application); 32836 (Piedmont's certificate amendment application); 32753 (Braniff's certificate amendment application); 32813 (Frontier's certificate amendment application); and 33003 (Texas International's certificate amendment application).

The investigation will consider whether the public convenience and necessity require new nonstop authority between Atlanta and Memphis; which carrier or carriers should be granted it; whether Eastern's authority at Memphis should be suspended, deleted or otherwise amended; and whether any new or existing authority should be subject to any restrictions or conditions.[8]

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[5] All members concurred.

[1] This interchange provided four daily round trips between Denver and Atlanta via Memphis; it was terminated by Order 77-4-146, effective July 27, 1977.

[2] Eastern reduced its service to one daily round trip on May 1, 1978.

[3] Docket 32721.

[4] Docket 32719.

[5] Docket 32836, Piedmont's certificate amendment application; Docket 32837, Piedmont's application for temporary exemption, filed June 9, 1978. On the same date, Piedmont moved to consolidate its applications with those of Southern.

[6] Braniff's certificate application was filed in Docket 32753 on May 26, 1978, accompanied by a motion to consolidate and an answer to Southern's petition. Frontier's certificate application was filed in Docket 32813 on June 5, 1978, accompanied by an answer by an answer to Southern's application and a motion to consolidate. Texas International's application was filed in Docket 33003 on July 7, 1978; previously, on June 26, 1978, it had filed a consolidated answer to the applications of Piedmont and Southern.

[7] Order 78-5-83, May 15, 1978.

[8] Applications, amendments to applications, motions to consolidate, petitions for reconsideration and environmental submis-

Footnotes continued on next page

As we have made clear in recent decisions (see, *e.g., Service to Oakland Case,* Order 78-4-121), we believe that market forces are most likely to result in optimum service at optimum fares since the market selection process operates continuously and efficiently. We will therefore consider the possible grant of permissive authority to all fit, willing, and able applicants, and the extent to which such awards encourage the efficiency, innovation, and competition deemed to be in the public interest by section 102 of the act. In view of this, we are less inclined than we were when we laid down the policy, in our order instituting the *Chicago - Albany / Syracuse - Boston Competitive Service Investigation,* Order 77-12-50, to give heavy weight in carrier selection to the offer or failure to offer low prices, since open competition will insure these offers more effectively than restrictive carrier selections based on their promise.

We are therefore concerned about the delay and costs of the evidentiary burdens which traditional carrier-selection cases entail for the parties, the Board and the Board's staff, and particularly with the burden of introducing and evaluating evidence that will be unnecessary if the case results in multiple permissive awards. We invite the parties and the administrative law judge to explore ways of reducing the quantity of required exhibit material, eliminating duplication and superfluous detail, standardizing methodology, and focusing on the significant facts and assumptions. Specifically, we are interested in reducing or eliminating the tremendous amount of detail on schedules, traffic, profitability and diversion typically required to adjudicate the issue of comparative carrier selection. The possibility of stipulating facts and eliminating comparative selection evidence should be carefully explored. In particular, carriers interested in being selected for a market only if multiple, permissive authority is awarded generally should be excused from submitting the full panoply of comparative selection evidence for that market.[9] Further, although low fares naturally will continue to be reflected in any revenue estimates submitted, we are not interested in any detailed comparative examination of the price/quality options arrived at by the various applicants. Ultimately, of course, we leave the resolution of all of these matters to the administrative law judge.

We believe Eastern's temporary suspension at Memphis is in the public interest, in view of the losses Eastern has experienced and expects to incur if it continues to provide one daily round trip service, and the net savings it anticipates upon suspension.[10] The public will not be inconvenienced by the termination since Southern and Piedmont stand ready immediately to replace Eastern's four nonstop round-trip frequencies, and will provide beyond market benefits. Further, Delta is operating numerous round trips in the Atlanta-Memphis market.

Our decision temporarily to exempt Piedmont and Southern from their respective one-stop restrictions is based on our belief that the Atlanta-Memphis market, as one of the largest in the Southeast[11], warrants a number of conveniently timed flights. Further, since Atlanta and Memphis are major hubs on the systems of both Piedmont and Southern, they will be able to provide replacement service at nominal risk. We emphasize that our grant to Piedmont and Southern of exemption authority to operate nonstop frequencies between Atlanta and Memphis will not influence in any way our decision in the *Atlanta-Memphis Service Investigation.* We will not take the exemption operations into account in deciding certification cases;[12] Since both Piedmont and Southern have stations at Atlanta and Memphis, the possible argument that their investments under the exemption will sway the Board to prefer them at the time of decision has little merit.

To require the carriers first to undergo a certificate proceeding in order temporarily to perform their twice daily Memphis-Atlanta round trips would be an undue burden on them, and would have the effect of precluding the proposed operations and depriving the public of needed service. Therefore, we find that the enforcement of section 401 of the act and the terms, conditions, and limitations of the certificates of public convenience and necessity of Piedmont and Southern, to the extent that they would otherwise preclude the carriers from providing nonstop service between Atlanta, Ga., and Memphis, Tenn., would be an undue burden on them by reason of the limited extent of their operations and would not be in the public interest.[13]

Accordingly, 1. We institute the Atlanta-Memphis Service Investigation, Docket 33411, be instituted under section 204 of the act and set it for hearing before an Administrative Law Judge of the Board at a time and place to be determined later;

2. The investigation instituted in paragraph 1, above, shall consider the following issues:

(a) Do the public convenience and necessity require the certification of an air carrier or carriers to engage in nonstop air transportation between Atlanta, Ga., and Memphis, Tenn.;

(b) If the answer to (a), above, is affirmative, which air carrier or carriers should be authorized and should any new or existing authority be subject to any terms, conditions, or limitations;

(c) Should Eastern's authority at Memphis, a point on segments 1, 3, and 5 of its Route 10, be suspended, deleted, or otherwise amended;

3. Any authority awarded here or in the investigation instituted by this order, shall be category II subsidy ineligible;

4. We consolidate the applications of Eastern Air Lines, in Docket 32770, Southern Airways, in Docket 32719, Braniff Airways, in Docket 32753, Frontier Airlines, in Docket 32813, Piedmont Aviation, in Docket 32836, and Texas International Airlines, in Docket 33003, to the extent they conform to the scope of this investigation, into the proceeding instituted in paragraph 1, above, and to the extent not consolidated or granted here, be dismissed;

5. We suspend the authority of Eastern Air Lines to serve Memphis, Tenn., on Route 10 be suspended under section 401(j) for a period of 5 years or until 90 days after final decision in Docket 33411, whichever occurs first;

6. We exempt Piedmont Aviation and Southern Airways from section

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Footnotes continued from last page

sions shall be filed 30 days from the date of service of this order, with replies due within 10 days thereafter.

[9] Moreover, for those who wish to pursue a traditional carrier selection theory of the case, detailed cost accounting evidence, *e.g.,* separate estimates for every segment or each type of fare, need not be required to justify the various price and quality proposals. For the Board's purposes, an analysis of profit of any applicant's proposal should be adequate if the expense estimates are calculated in accordance with the methodology described for local service carrier route applicants in the Board's procedural regulations. 14 CFR 302.1101 *et seq.,* Subpart K and PR-172, April 14, 1978. Applicants, including new entrants, whose data are not included in this costing system shall submit costings based on their internal company data, in Subpart K format to the extent feasible. While all applicants are of course free to include estimates of expense computed using a different methodology, we do not believe that it is a fruitful use of the applicants', the staff's or the Board's resources to require an analysis of the cost of an applicant's proposal by a second costing method.

[10] See Eastern's Exhibits I and J for its analysis of the losses it incurred from its operations at Memphis and the benefits it will derive from suspension of its Atlanta-Memphis service.

[11] For C.Y. 1977, the market generated 267,220 O. & D. plus interline connecting passengers.

[12] See *e.g.,* Order 78-6-59, June 8, 1978.

[13] Upon review of the environmental evaluations submitted by Eastern, Piedmont, and Southern in their applications, we find that our decision does not constitute a "major Federal action significantly affecting the quality of the human environment" within the meaning of the National Environmental Act of 1969 or a major regulatory action under the Energy Policy and Conservation Act of 1975.

401 of the act and the terms, conditions, and limitations of their certificates for Routes 87 and 98, respectively, to the extent necessary to permit them to provide two daily nonstop round trips between Atlanta, Ga., and Memphis, Tenn., for a period of 5 years or until 90 days after the final decision in Docket 33411, whichever occurs first;

7. We deny the petitions of Piedmont and Southern for show cause procedures;

8. Applications, amendments to applications, motions to consolidate and petitions for reconsideration of this order shall be filed with the Board no later than October 19, 1978; answers to such pleadings shall be filed no later than October 30, 1978; [14]

9. All carriers filing applications in this proceedings shall file environmental evaluations under § 312.12 of the Board's Regulations no later than October 19, 1978; [15]

10. The authority granted above shall be effective on the date of adoption of this order; and

11. This order may be amended or revoked at the discretion of the Board without hearing.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[16]
Secretary.

[FR Doc. 78-26924 Filed 9-25-78; 8:45 am]

[6320-01]

[Docket 33361]

FORMER LARGE IRREGULAR AIR SERVICE INVESTIGATION—PHASE 1

Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on October 19, 1978, at 9:30 a.m. (local time), in Room 323, U.S. Court House, 312 North Spring Street, Los Angeles, Calif. 90012.

The parties are encouraged to communicate among themselves in preparation for the conference with a view toward expediting the proceedings. Unrepresented parties are encouraged to obtain procedural assistance from Counsel for the Bureau of Pricing and Domestic Aviation, Legal Analysis Division, Civil Aeronautics Board, Washington, D.C. 20428: Attention: Steven K. McKinney, Esq., telephone 202-673-5273, as previously suggested in the "Notice to All Interested Persons" dated August 16, 1978 (43 FR 36988, August 21, 1978), in this docket formerly denominated docket 32327-1.

Dated at Washington, D.C., September 20, 1978

MARVIN H. MORSE,
Administrative Law Judge.

[FR Doc. 78-27041 Filed 9-25-78; 8:45 am]

[6320-01]

[Order 78-9-91; Docket 32049]

HUGHES AIR CORP., d.b.a. HUGHES AIRWEST

Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 20th day of September 1978.

On January 30, 1978, Hughes Airwest applied to amend its certificate of public convenience and necessity for segment 2 of route 76F which now reads: "Between the coterminal points Phoenix and Tucson, Arizona, and the coterminal points Guaymas, La Paz, San Jose del Cabo, Mazatlan, Puerto Vallarta, and Guadalajara, Mexico." The amended certificate would add two new U.S. and five new Mexican coterminals. The new U.S. points are Oakland and San Jose, Calif. The new Mexican points are Loreto, Manzanillo, Mexico City, Zihuatanejo and Acapulco.[1]

Airwest petitioned the Board on May 31, 1978, to process the application by show cause procedures. In support of its request, Airwest states that it has served Mexico on route M of the United States-Mexico Air Transport Agreement for nearly 10 years; that the United States and Mexico signed an amendment to the bilateral agreement on January 20, 1978 adding the two new U.S. and five new Mexican points to route M to make route A.2; that Airwest already serves most of route A.2, which by the terms of the bilateral is an indivisible route; that it was formally designated for route A.2 by the U.S. Government on March 2, 1978; and that the certificate amendment will make segment 2 of Airwest's route 76F conform to the new route A.2.

Airwest currently operates single-plane service over a substantial portion of the expanded route A.2 by virtue of its domestic rights from Oakland and San Jose to the gateways Phoenix and Tucson.[2] If its application were granted it would institute service in the fall of 1978 to one more Mexican point, with two daily nonstop round trips between Phoenix and Mexico City. It forecasts it would carry 84,000 local, through and connecting passengers over the Phoenix-Mexico City segment in 1979. As for service to Acapulco, Manzanillo, and Zihuatanejo, Airwest is analyzing the market and growth potential of these cities to determine the best plan for inaugurating service to them. Service to Loreto is not contemplated for the foreseeable future because of the undeveloped nature of the market and the lack of an airport capable of accommodating jet aircraft.

No answers to the application or the petition for an order to show cause have been received.

We have decided to issue an order directing all interested persons to show cause why Hughes Airwest's certificate should not be amended to add the U.S. points Oakland and San Jose and the Mexican points Loreto, Manzanillo, Mexico City, Zihuatanejo and Acapulco to segment 2 of its route 76F.[3] The new authority shall be placed in category II of the list of subsidy ineligible points appended to order 78-5-16 and the new list that will be attached to the new certificate. We tentatively find and conclude that the public convenience and necessity require such an amendment, and that an oral evidentiary hearing is not required. We also tentatively find that Airwest is a citizen of the United States and is fit, willing, and able properly to perform the air transportation authorized by the proposed certificate amendment

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[14] We delegate to the presiding Administrative Law Judge the authority to consolidate by order any applications which conform to the scope of the proceeding.

[15] Eastern, Piedmont, and Southern filed environmental evaluations as part of their applications.

[16] All members concurred.

[1] The proposed new segment 2 of route 76F would read: 2. Between the coterminal points Oakland and San Jose, Calif.; Phoenix and Tucson, Ariz. and the coterminal points Guaymas, Loreto, La Paz, San Jose del Cabo, Mazatlan, Puerto Vallarta, Guadalajara, Manzanillo, Mexico City, Zihuatanejo and Acapulco, Mexico.

[2] Phoenix and Tucson will continue to be gateway points on route A.2 insofar as a restriction in the amended bilateral agreement states that flights between Oakland and San Jose, on the one hand, and Guadalajara, Mexico City, Acapulco, Mazatlan, and/or Puerto Vallarta, on the other hand, shall serve either Phoenix or Tucson as an intermediate stop. Nonstop operations between Oakland/San Jose and Puerto Vallarta, and between Oakland/San Jose and Mazatlan, will be allowed commencing October 1, 1981, and October 1, 1982, respectively. Airwest requests that these restrictions to route A.2 not be included as conditions in its amended certificate. Since Airwest is subject to these restrictions by virtue of Condition (1) contained in its certificate for route 76F, which requires it to operate "* * * in accordance with all treaties and agreements between the United States and other countries * * *," we will not include the restrictions in its amended certificate.

[3] Upon our review of Airwest's environmental evaluation, we find that the addition of two daily takeoff and landing cycles at Phoenix do not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. Moreover, since Airwest's proposed operations would not result in the near-term consumption of 10 million gallons of fuel, our action here would not constitute a "major regulatory action" under the Energy Policy and Conservation Act of 1975.

and to conform to the provisions of the Act and the Board's rules, regulations, and requirements.

Accordingly,

1. We direct interested persons to show cause why the Board should not issue an order making final the tentative findings and conclusions stated in this order and amend the certificate of public convenience and necessity of Hughes Air Corp., d.b.a. Hughes Airwest, for segment 2 of route 76F to read as follows: [4]

Between the coterminal points Oakland and San Jose, Calif.; Phoenix and Tucson, Ariz., and the coterminal points Guaymas, Loreto, La Paz, San Jose del Cabo, Mazatlan, Puerto Vallarta, Guadalajara, Manzanillo, Mexico City, Zihuatanejo, and Acapulco, Mexico.

2. We direct interested persons having objections to the issuance of an order making final the proposed findings and conclusions, or to the proposed certificate amendment set forth in this order within 10 days [5] after service of this order, to file with the Board and serve upon all persons listed in paragraph 6 below, a statement of objections together with a summary of testimony, statistical data, and other evidence expected to be relied upon to support the stated objections. If an oral hearing is requested, the objector should state in detail why such hearing is considered necessary and what relevant or material facts would be expected to be established through such hearing which cannot be established in written pleadings.

3. If timely and properly supported objections are filed, we will give further consideration to the matters and issues raised by the objections before we take further action: *Provided*, That the Board may proceed to enter an order in accordance with its findings and conclusions set forth in this order if it is determined that there are no factual issues present that warrant the holding of an oral evidentiary hearing.[6]

4. In the event no objections are filed, we will deem that all further procedural steps are waived, and we direct the Secretary to enter an order which, subject to the approval of the President, (1) makes final the Board's tentative findings and conclusions set forth in this order, and (2) issues an amended certificate of public convenience and necessity for route 76F to Hughes Air Corp., d.b.a. Hughes Airwest in the form attached;

5. We grant the petition of Hughes Air Corp., d.b.a. Hughes Airwest, for issuance of an order to show cause; and

6. We will serve a copy of this order upon Hughes Air Corp., d.b.a. Hughes Airwest; all certificated air carriers; the Governors of California and Arizona, the Mayor of Mexico, D.F., the Governors of Baja, Calif., Colima and Guerrero, Mexico; and the U.S. Departments of State and Transportation.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board: [7]

PHYLLIS T. KAYLOR,
Secretary.

[SPECIMEN CERTIFICATE]

UNITED STATES OF AMERICA CIVIL AERONAUTICS BOARD WASHINGTON, D.C.

[Certificate of Public Convenience and Necessity (as amended) for Route 76F]

Hughes Air Corp. d.b.a. Hughes Airwest is authorized, subject to the provisions of title IV of the Federal Aviation Act of 1958, and the Board's orders, rules and regulations, to engage in foreign air transportation of persons, property, and mail, as follows:

1. Between the terminal points Spokane, Washington, and the coterminal points Calgary and Edmonton, Alberta, Canada.

2. Between the coterminal points Oakland and San Jose, Calif.; Phoenix and Tucson, Ariz, and the coterminal points Guaymas, Loreto, La Paz, San Jose del Cabo, Mazatlan, Puerto Vallarta, Guadalajara, Manzanillo, Mexico City, Zihuatanejo, and Acapulco, Mexico.

3. Between the terminal point Las Vegas, Nevada and the coterminal points Calgary and Edmonton, Alberta, Canada.

4. Between the coterminal points Los Angeles and San Francisco, Calif., and the coterminal points Calgary and Edmonton, Alberta, Canada.

The service authorized is subject to the following terms, conditions, and limitations:

(1) The holder shall conduct its operations in accordance with all treaties and agreements between the United States and other countries, and the exercise of the privileges granted by this certificate shall be subject to compliance with such treaties and agreements, and to any other orders issued by the Board for the purpose of requiring compliance with such treaties and agreements.

(2) The holder shall render service between the points named except as temporary suspension of service may be authorized by the Board. The authority to serve segments 2 and 4 is permissive.

(3) The holder may continue to serve regularly any point named through the airport last regularly used by the holder to serve such point prior to the effective date of this certificate; and may continue to maintain regularly scheduled nonstop service between any two points not consecutively named if nonstop service was regularly scheduled by the holder between such points prior to the effective date of this certificate. Upon compliance with such procedures as the Board may prescribe, the holder may, in addition, regularly serve the point named through any convenient airport, and may operate nonstop service between any two points not consecutively named.

(4) The exercise of the authority granted shall be subject to the carrier's first obtaining from the appropriate foreign government such operating rights as may be necessary.

(5) The holder's authority to engage in the transportation of mail in the operations listed in appendix A, categories I and II of order ————, is limited to carriage on a nonsubsidy basis, *i.e.*, on a service mail rate to be paid entirely by the Postmaster General; the authority listed in these categories shall, for purposes of profit sharing, be treated separately. The authority to operate over the segments listed in category II is conditioned upon compliance with the interim accounting procedures for profit sharing adopted in docket 28800.

The exercise of the privileges granted by this certificate shall be subject to such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Board.

The holder acknowledges and agrees that it is entitled to receive only service mail pay for the mail service rendered or to be rendered solely in connection with operations specified in paragraph (5), and that it is not authorized to request or receive any compensation for mail service rendered or to be rendered for such operations in excess of the amount payable by the Postmaster General.

This certificate shall be effective on ————: *Provided, however*, That prior to the date on which this certificate would otherwise become effective the Board, either on its own initiative or upon the timely filing of a petition or petitions seeking reconsideration of the Board's order of ————, 19—— (Order ————) insofar as such order authorizes the issuance of this certificate, may by order or orders extend such effective date from time to time; *Provided further*, That the continuing authority to operate over segment 4 and to serve Oakland and San Jose, Calif., and Loreto, Manzanillo, Mexico City, Zihuatanejo, and Acapulco, Mexico, shall be conditioned upon the timely payment, by the holder, of such license fees as may be prescribed by the Board. The authority to serve segment 4 will expire July 23, 1983.

The Civil Aeronautics Board has directed its Secretary to execute this certificate and affix the Board's seal on ————.

———————————

Secretary.

Issuance of this certificate to the holder approved by the President of the United States on ———— in ————.

[FR Doc. 78-27044 Filed 9-25-78; 8:45 am]

[4] In order to give Airwest maximum flexibility in scheduling its services, we will make the new authority permissive.

[5] In order for Airwest to commence operations by the fall of 1978, and considering the absence of objections to the application and the petition for show cause, we find that the public interest requires the allowance of only 10 days for objections to this order.

[6] Since provision is made for the filing of objections to this order, petitions for reconsideration will not be entertained.

[7] All members concurred.

[6320-01]

[Order 78-9-56; Docket Nos. 29449 and 30132]

NORTHWEST AIRLINES, INC.

For Realinement of Route 3 and Restriction Removal; Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 13th day of September 1978.

By application and petition filed and supplemented on November 11, 1976, to conform to the June 25, 1976, informational guidelines in order 76-7-101, Northwest Airlines has requested the Board to issue an order directing interested persons to show cause why Northwest's certificate of public convenience and necessity for Route 3 should not be amended and modified to realine the existing segments 1-9 and 11-13 of that route into a single linear segment and to eliminate certain operating restrictions which Northwest claims impede its operating flexibility and are no longer required for competitive reasons.[1]

In support of its application and petition, Northwest alleges that the goals of route realinement for local service carriers—economic efficiency and better service to the public—are equally applicable to the unsubsidized trunk carriers. Further, it contends this proposed realinement is consistent with the Board's guidelines established in order 76-5-101, May 21, 1976.

Answers in opposition were filed by several carriers and two civic parties. The following local service carriers objected to Northwest's proposal in general because they are opposed to trunkline realinements and also objected to removal of restrictions in specific markets: Allegheny Airlines, Frontier Airlines, and North Central Airlines.[2] Objections to specific markets in Northwest's petition were filed by Air California (an intrastate airline) and the following trunk carriers: American Airlines, Continental Air Lines, Delta Air Lines, Trans World Airlines, United Air Lines, and Western Air Lines.[3] Finally, the State of Maryland and the Port of Oakland are concerned about the possible increase in dormant authority at Baltimore/Washington International Airport and Oakland, respectively, and Maryland also opposes the use of show cause procedures in place of oral hearings for realinements.

Northwest filed a reply.

As we stated in the recent Ozark, Delta, and Western route realinements,[4] it is our policy to realine the route systems of the certificated scheduled carriers to maximize the opportunities for scheduling flexibility and equipment utilization, to conform route authority to traffic flows, and to eliminate or modify certificate conditions which serve no useful purpose, impair market development, and inhibit improvement in the carrier's economic performance. These objectives are equally applicable to trunk and local service carriers.[5]

We tentatively conclude that Northwest's proposed realinement, as modified by this order, conforms with the Board's policy and objectives discussed above and that substantial service and carrier benefits will result from the realined route system. Further, the proposed realinement will offer Northwest the potential for significant improvement in operating efficiency and will permit it to provide improved service to the traveling public.

No arguments have been raised that we have not already fully discussed in the Western, Delta, Ozark, and American realinement orders. In our orders in the Western (order 76-5-101) and Delta (order 78-4-109) realinements, we have answered the concern of the local service carriers and the civic parties over the use of show-cause procedures and the increase in dormant authority which occurs when carriers receive improved authority in minor and monopoly markets; the contention that the doctrine of *Ashbacker Radio Corp.* v. *F.C.C.*, 326 U.S. 327 (1945) bars the Board's consideration of requests by Northwest for improved authority in specific markets; and the problem of realinement applicants receiving under the guidelines authority at satellite airports which is superior to what they could obtain at principal metropolitan airports under the same guidelines. As stated more fully in the previous realinement orders: Show-cause procedures protect the rights of all parties; *Ashbacker* is not a bar to our realinement decisions; and authority will not be granted to a realinement applicant at a satellite airport which is superior to that which it could obtain under the realinement guidelines at the principal municipal airport, unless its satellite authority is already superior.

Northwest has requested a waiver of the provisions of part 312 of the Board's procedural regulations, which require, the filing of an environmental evaluation. Northwest supports its request by stating that the realinement will enable it to operate more efficiently and produce greater opportunities for reduction in fuel consumption, air pollution, and ambient noise levels. Further, it states that it is not proposing increased service as a result of its proposals. We tentatively find that the action we propose here will not constitute a major Federal action significantly affecting the quality of the environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969, and, under § 312.6, we waive the requirement of filing an environmental evaluation. We also tentatively find under part 313 of our procedural regulations that realinement of Northwest's Route 3 will probably lead to more efficient use of fuel through the greater opportunity to provide nonstop and single-plane service in place of multi-stop service and online connections. Therefore, our action does not constitute a major regulatory action requiring an energy statement under the Energy Policy and Conservation Act (42 U.S.C. 6201 et seq.).[6]

We further tentatively find that Northwest Airlines is a citizen of the United States within the meaning of the Act, and is fit, willing, and able to perform properly the air transportation proposed here and to conform to the provisions of the Act and the Board's rules, regulations, and requirements.

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 here should not be made final; answers will be due within 10 days thereafter. We expect such persons to direct their objections, if any, to specific markets, and to support such objections with detailed economic anayisis. If an evidentiary hearing complete with the opportunity for oral cross-examination is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts the objector would expect to establish through such a hearing that cannot be established in written plead-

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[1] In light of our tenatative conclusions in this order, we will dismiss as moot Northwest's application in docket 30132 to amend its certificate for Route 3 to authorize it to perform one-stop, single-plane service in the Milwaukee-Los Angeles/Long Beach/Ontario/San Francisco/Oakland/San Jose markets.

[2] Eight local service carriers, including these three, filed a motion requesting a stay of further procedural steps on trunkline realinement applications pending the filing of written and oral argument on certain alleged legal and policy issues concerning trunk realinements. This motion was denied in the Western realinement proceeding by order 77-11-74, Nov. 17, 1977, at 4-13. See also order 78-4-109, Apr. 19, 1978, at 3 n.6, for a fuller history of this motion.

[3] We will grant the motions for leave to file otherwise unauthorized documents filed by Air California and TWA.

[4] Orders 78-6-4, 78-4-109, and order 77-11-74, finalizing order 76-5-101, respectively.

[5] Order 78-6-4, at 2, order 78-4-109, at 4-5.

[6] We also tentatively find that the actions we propose in orders issued simultaneously with this order to amend the certificates of carriers certificated to serve the minor markets in which we are improving Northwest's authority are similarly not major Federal actions affecting the environment or major regulatory actions requiring energy statements.

ings. General, vague, or unsupported objections will not be entertained.

Accordingly:

1. We direct all interested persons to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending Northwest's certificate for Route 3 in the manner set forth in the accompanying proposed certificate (appendix B);

2. Any interested persons having objection to the issuance of an order making final the proposed findings, conclusions, and certificate amendments and modifications set forth here shall, no later than October 19, 1978, file with the Board and serve upon all persons listed in appendix I, a statement of objections together with a summary of testimony, statistical data, and evidence expected to be relied upon to support the stated objections; answers to objections shall be filed no later than October 30, 1978;

3. If timely and properly supported objections are filed, full consideration will be accorded the matters or issues raised by the objections before further action is taken by the Board; [8]

4. In the event no objections are filed to any part of this order, we will consider all further procedural steps relating to such part or parts to have been waived, and the case will be submitted to the Board for final action;

5. We grant the motions of Air California and Trans World Airlines for leave to file otherwise unauthorized documents;

6. We grant Northwest's application for a waiver of part 312;

7. We dismiss as moot Northwest Airlines' application in docket 30132 to amend its certificate of public convenience and necessity for Route 3 to permit one-stop, single-plane service between Milwaukee, Wis., on one hand, and Los Angeles/Long Beach/Ontario and San Francisco/Oakland/San Jose, Calif., on the other hand; and

8. We shall serve a copy of this order upon all persons listed in appendix I.[9]

We shall publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[10]
Secretary.

[FR Doc. 78-26925 Filed 9-25-78; 8:45 am]

[8] All motions and/or petitions for reconsideration shall be filed within the period allowed for filing objections and no further motions, requests, or petitions for reconsideration of this order will be entertained.

[9] Appendix A-I filed as part of the original document.

[10] All members concurred.

[6320-01]

[Order 78-9-96, Dockets 30699, et al.]

OAKLAND CHAMBER OF COMMERCE, ET AL.

Oakland Service Case; Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 21st day of September 1978.

In the matter of *Oakland Service* case,[1] petition of Oakland Chamber of Commerce and Port of Oakland for a service investigation (docket 30699); applications of Allegheny Airlines, Inc., Braniff Airways, Inc., Frontier Airlines, Inc., Hughes Air Corp., d.b.a. Hughes Airwest, Northwest Airlines, Inc., Texas International Airlines, Inc., Ozark Air Lines, Inc., for authority between Oakland and various points (dockets 30739, 30819, 30862, 30863, 31583, 30981, 30866, and 33127).

By order 78-4-121, served May 30, 1978, we instituted the *Oakland Service* case to consider the need for additional certificated route authority between Oakland, on the one hand, and Albuquerque, Atlanta, Boston, Chicago, Dallas/Fort Worth, Denver, Detroit, Houston, Kansas City, Minneapolis/St. Paul, Philadelphia, Phoenix, Portland, Salt Lake City, and Seattle/Tacoma, on the other. Seven carrier applications were consolidated into this proceeding, as well as the petition of the Oakland Chamber of Commerce and Port of Oakland for a service investigation. We tentatively decided to adopt, for purposes of this proceeding, a policy of awarding permissive, subsidy-ineligible authority in every market at issue in which a need for additional authority is shown, to every fit, willing, and able applicant whose illustrative service proposal indicates that it is prepared to satisfy a part of the demonstrated need. Interested persons were given an opportunity to file written comments, participate in oral argument before the Board, and file reply comments on the question of whether this proposed policy determination should be adopted. Twenty-one parties filed comments on this issue, 15 participated in the oral argument, and 3 filed reply comments. In addition, five petitions for reconsideration and two petitions for leave to intervene were filed. Appendix A to this order provides an extensive summary of all of these written pleadings.

After considering all comments, both written and oral, we have decided to adopt the policy proposed in order 78-4-121. We have also decided to include the Oakland-Los Angeles market in the proceeding, since we have concluded that the findings of that order apply to that market as well. In addition, we have decided to keep the Seattle and Portland markets in this proceeding, but make them coterminals.

Summarized broadly, the arguments in the comments fall into eight categories—legal objections to certificating more applicants than a market can economically support, legal objections to permissive certification at Oakland, economic objections to applying a policy of multiple permissive certification in any situation, economic objections to applying a policy of multiple permissive certification in situations other than Oakland, economic objections to the failure to apply a policy of multiple permissive certification in all situations, objections to the Board's environmental procedures, and complete agreement with the way the Board is handling this case.

LEGAL ARGUMENTS

Since the legal arguments made here apply to multiple permissive certification in all situations, not just Oakland's, they are substantially the same as those filed in the *Improved Authority to Wichita* case, et al., docket 28848, where we invited written comments and oral argument on the general policy and legal implications of multiple permissive certification, delayed-entry awards, and backup awards. In fact, some *Oakland* comments specifically incorporate by reference comments in docket 28848.[1a]

The central and crucial legal contention is that the Federal Aviation Act does not, in the circumstances of this case or generally, empower the Board to abandon comparative carrier selection and adopt in its stead a policy that we have characterized as multiple permissive entry. We of course agree with all of the pleadings filed in this and other dockets that this change in policy is fundamental, although, as detailed in order 78-4-121 at page 46, not without some precedent in past Board actions.

In broad outline we have determined that all applicants that are found to be fit, willing, and able to provide service should be authorized to operate in each of the city-pairs at issue upon an evidentiary showing that the market can economically support some service and subject to the submission by each applicant of a fully costed illustrative service proposal assuming the use of aircraft suitable for the route. Incumbent carriers at Oakland are free to submit evidence of diversion, including forecasts based on "worst case" assumptions, in order to persuade us that their ability to perform their cer-

[1] Appendix A—Summary of comments in *Oakland Service* case, docket 30699 is filed as a part of the original document.

[1a] TWA, Delta (whose comments in Docket 28848 were physically reproduced), and National (who "assumes * * * that its prior comments will be given careful attention in this proceeding").

tificate responsibilities will be threatened or that essential services would necessarily be terminated and not replaced by an applicant or by other carriers.

Certain of the objecting parties argue that the Board cannot lawfully adopt such a policy and that the statute requires the Board to determine how many carriers can profitably operate in each market and then select from among the applicants in accordance with this determination. Hence, if only one carrier can be profitable, the Board assertedly can grant only one application and must deny the others. Absent this determination, it is directly or inferentially alleged that too many carriers would operate, leading to losses which would damage the ability of the individual airline components of the air transportation system to fulfill their service obligations.

We have anticipated and squarely met these arguments in order 78-4-121, and we address ourselves to the comments received in response to that order in detail below. Suffice it to say here that we do not assert that all carriers authorized will in fact operate. On the contrary, we are confident that if a market can support only one carrier, only one will operate. While there may be a competitive struggle, it will be short-lived: carriers will not long sustain losses which cannot be later recovered because of the competitive structure of the industry. In our view, carrier managements, and the capital markets on which they depend, are highly rational and will be adept at exploiting profitable opportunities. While we believe this to be true in general, the current absence of excess capacity in the industry makes it particularly unlikely that any carrier would ignore more profitable opportunities elsewhere in order to maintain an unprofitable operation at Oakland. In the end the market will determine selection and, importantly, it will do so continously. This is because the presence of numerous authorized but nonoperating carriers in each market will force an incumbent, in order to maintain its market share, to maintain an optimum or near-optimum mix of price and service. It will do so in order to prevent another authorized carrier from entering for the purpose of exploiting unmet demand.

A major deficiency in the traditional system of comparative selection in route cases has been the experienced difficulty in holding carriers to their service promises made in those cases, and generally in assuring the provision of adequate service by incumbent licensees. This difficulty has been accentuated, as we discussed in order 78-4-121 and develop further below, by our longstanding customary policy, most clearly exhibited in route-realignment and restriction-removal proceedings, of granting carriers extremely flexible operating authority which renders their service in particular city-pair markets wholly permissive. Although such flexible authority has many advantages, it is difficult, in the absence of a realistic threat that other carriers can immediately enter a market to correct service quality or price deficiencies, to prevent such deficiencies from occurring. By providing such a realistic threat of prompt new entry or reentry, our new policy is designed to assure adequate service and price performance, while retaining the benefits of flexible operating authority.

Particular objections are appraised in greater detail in the comments below. We note in passing here, however, the following:

First, it is unchallenged that the Act grants the Board wide discretion as to the policies and procedures it may employ, subject to due-process considerations and the rule of rational decisionmaking, in achieving the objectives of the Act, which are broadly framed in its declaration of policy and make express reference to both the present and the future needs of the air transportation system.

Second, no one has alleged that our policy, as applied in this particular proceeding, is not reasonable specifically in the light of current and foreseeable economic conditions, or that it has not been rationally and fully explained, or that it is not based on substantial evidence relating to current and foreseeable economic conditions, as well as historic facts. In particular, our findings concerning the improbability of destructive or harmful competition in the Oakland markets at issue have not been rebutted on the basis of economic fact or theory.

Third, none of the objecting parties has asserted that the Act expressly in specific terms proscribes a policy of multiple permissive entry.

Fourth, those sections of the Act from which it is inferentially alleged that such a policy is unlawful (that part of section 401 which speaks of granting applications for the provision of "such transportation," and the abandonment and adequacy-of-service provisions of the Act) cannot be read as requiring mandatory service or strict public-utility-type operating licenses in light of the Board's past administration of the Act as approved by the courts.

Fifth, citations to the legislative history of the Act alleged to show the impermissibility of our proposed new policy are to some extent contradictory and ambiguous as detailed guides. On the one hand, this results from the fact that a large number of the components of the legislative history are retrospective, that is, they relate to the special conditions of the airline industry in and before 1938, particularly the method of subsidy payment under various airmail contract systems. On the other hand, the part of the legislative history that looks toward future developments suggests that Congress' very purpose in establishing the Board was to have it adapt licensing and other policies to changing conditions within both the economy as a whole and the airline industry in particular. We conclude, therefore, that read as a whole, the legislative history confirms that the Board's discretion was intended to be very broad, and specifically broad enough to permit policies to be adapted to future conditions.

Sixth, the court decisions cited against our proposal were all decided in contexts where the Board was engaging in comparative selection; they were based on the undisputed premise that the Act permits a policy of comparative selection (which for the most part the courts found to have been erroneously or improperly applied in the particular situation at hand), but not that the Act requires such a policy—i.e., they do not hold that a policy of multiple permissive authority is prohibited.

Turning to the specific grounds urged for the proposition that the Act requires us to predict the exact number and identity of the carriers that a market will support and certificate only those, Braniff argues that "the statute was designed to correct the abuses of unrestrained competition among carriers" and cites the following statement of Senator McCarran, who sponsored several of the original bills on airline regulation:

If it could be established to the satisfaction of the Authority which is about to be set up that another line could be operated from Chicago to Salt Lake City, although that same territory is now served by United Air Lines, and the demand for service was so great as to support another line, then the Authority could * * * say "* * * there is sufficient commercial life to sustain the other lines. Therefore we can grant a franchise to another line." * * * (A)nd if the circumstances do not justify another line, say, "No, you cannot go in; you cannot set up another line, because if you do both lines will fail; both lines will go out of business, and the public that we are looking to primarily will not be served." That is the object and purpose of this entire bill. 83 Cong. Rec. 6852 (1938).

Similarly, National, in its comments in docket 28848 to which it refers in its *Oakland* comments, cites the recommendation of the 1935 Federal Aviation Commission that "there should be a certain measure of control by the Government of the right of entry into the business in order that proper standards may be enforced and irresponsible campaigns of mutual destruction on the part of operators averted." (Report of the Federal Aviation Commission, submitted January 22, 1935, page 52.) Another recommendation in that report was that "there should be a check on development of any irresponsible, unfair, or excessive competition such as has sometimes hampered the progress of other forms of transport." (Report, page 54.)

Thus, Congress enactment of the Federal Aviation Act in 1938 resulted from concern over destructive competition. And yet, rather than suggesting that multiple permissive entry at Oakland will actually produce this result, Braniff, while adducing this legislative history in opposition to the action we

propose here, argues that Oakland will get very little service under a free-entry policy. We can only interpret its arguments, then, to mean that Congress intended the Board to regulate restrictively out of a fear of destructive competition *even* in situations where it is clear that nonrestrictive licensing adequately serves the public interest and will not result in destructive competition. Braniff cites no legislative history in support of such a proposition, nor can we agree that Congress intended this absurd result. As thoroughly detailed in Order 78-4-121 (pp. 24-32), we have a completely different view of how Oakland will fare in a more competitive environment, but our ultimate conclusion that there will be no destructive competition is the same as Braniff's and we continue to believe that our statutory mandate to promote healthy competition, rather than suppress it, is clear.[2]

Braniff and TWA argue that Congress contemplated a public-utility type of regulation of aviation, but both recognize that Congress did not want the Civil Aeronautics Authority to adopt the "natural monopoly" principles of conventional public-utility regulation. Our disagreement with these carriers is over how Congress intended us to effectuate the policies described in § 102 of the Act. Braniff says we have to regulate competition; but, consistently with the Supreme Court's warning in *FPC* v. *Texaco*, 417 U.S. 380 (1974), we have not abdicated our regulatory responsibilities. Here we have reviewed Oakland's need for service, we have analyzed the ability of certain Oakland markets to support service, and we have determined that multiple permissive authority is likely to be the best practical solution to Oakland's problems. No one argues that the type of destructive competition Congress feared in 1938 will occur at Oakland. Moreover, as National recognizes, we are indeed "stack[ing] the deck" in Oakland's favor for the time being since we are not simultaneously opening entry to San Francisco, and we have assured Oakland that, if multiple permissive authority does not result in improved service, we will review the situation and consider further action. Although we do not think it will be necessary to invoke these provisions of the Act, we still have the tools of §§ 401(g) and 404 at our disposal.[3]

In 1937 Senator McCarran said:

> The certificating procedure does nothing except to prevent someone with inadequate facilities, or without responsibility, from entering the public service, and to prevent the inauguration of service when it would be unjustified. The principle of convenience and necessity * * * is not the principle of monopoly. It is the principle of order, economy, and adequacy of service.[4]

We believe we are being faithful to that principle.

The opponents of our *Oakland* policy also argue that the language of the Act precludes us from awarding authority to all fit and able applicants whose illustrative service proposals demonstrate their willingness to meet some of the service needs of a particular Oakland market.[5] National and TWA argue that § 401(d)(1) allows the Board to 'certificate a carrier in a market only if "such transportation" *by that particular carrier* is required by the public convenience and necessity, citing *Capital Airlines* v. *CAB*, 281 F.2d 48 (D.C. Cir. 1960).

We cannot agree with such a restrictive interpretation of our authority, particularly since it is inconsistent with past Board and court decisions. Thus, for example, in the *Detroit-California Nonstop Service Investigation*, 43 CAB 557 (1966), we granted unrestricted authority to three carriers (through removal of restrictions) in the Detroit-Los Angeles/San Francisco markets without finding that these markets could support all three carriers or that *service* by all three, as opposed to authority, was required by the public convenience and necessity. The Seventh Circuit affirmed in *United Air Lines* v. *CAB*, 371 F.2d. 221 (7th Circuit 1967), stating:

> It is evident from these broadly-phrased objectives [in section 102] that a "public convenience and necessity" determination may be made without strict adherence to rigid or definitive criteria, and that the Board may exercise a broad discretion in effectuating the congressional policy. (371 F.2d 224.)

The court went on to say:

> Although we think that an indiscriminate application of the "operational flexibility" factor and an overreliance upon the marketplace in providing economic answers are not without some hazards, the Board's resolution in this case was sufficiently attuned to section 102 of the Act to require our approval. (371 F.2d 224.)

While our extensive analysis of the causes of and solutions for Oakland's needs fully comports with this admonition, we also observe that the air transportation system has undergone major changes over the years and we have been able to observe that competitive behavior in relatively unregulated areas of the system does not have undesirable results (see pp. 28-31 of Order 78-4-121). The courts have frequently held that administrative agencies have a duty to adapt their policies and opinions to changing circumstances, and to the lessons of experience.

Moreover, if, as National argues, we must interpret section 401(d)(1) restrictively and always find transportation by a particular applicant to be required, the conclusion follows that mandatory service obligations would also always be required—if service by carrier A is required by the public convenience and necessity, carrier A must provide the service. Such an interpretation, of course, is at odds with the way most route authority has historically been and is certificated today (see pp. 48-50, Order 78-4-121).

It is quite evident that National, and the other parties who have proposed similarly restrictive interpretations of the phrase "such transportation" in section 401(d)(1), have not fully thought through the ultimate logical implications of their arguments. If the Board can grant an application for a certificate only where it finds that "such transportation is required by the public convenience and necessity," and if "such transportation is required" is interpreted to mean nothing less than an imperative public requirement for actual, immediate, and continuing service by a specific applicant, then mandatory authority would appear to be the only kind the Board could properly award—authority mandatory not merely in the rather trivial sense of requiring some modicum of service at each named point, but in the sense of mandatory service of specified extent in each specific city-pair market where the Board has found such service to be "required by the public convenience and necessity." (As we develop more fully below, public need for service exists in specific markets, not merely "at" points.)

Indeed, in a route case where (for example) an applicant promises four daily nonstop round trips in one of the principal markets at issue, and is then selected to serve the market in reliance on this promise and the Board's determination that this is the specific

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[2] National persistently refused to offer its views on the outcome of applying a multiple permissive entry policy at Oakland, assuming access to San Francisco was not simultaneously eased (see particularly Oral Argument Transcript, pp. 20-27 and 46-49), stating that, since it was not a party to the case, it could not comment on the economic issues. We note that Order 78-4-121, p. 57, specifically invited "interested parties [to] address the proposed policy from the standpoint of law, fact, *economics*, and public policy" and that National filed its comments in response to this invitation. We frankly fail to see how national can offer a legal analysis criticizing the policy the Board is applying to *Oakland*, on the grounds that it does not take into account Congress concern over destructive competition, when National has not even analyzed the economic question of whether there will, in fact, be destructive competition at Oakland.

[3] See pp. 27-28 below.

[4] Proposed amendments to the Interstate Commerce Act and proposed bill to promote the safety of scheduled air transportation: Hearings on S. 2 and S. 1760 before the Subcommittee of the Committee on Interstate Commerce, 75th Cong., 1st sess., 410 (1937) (statement of Senator McCarran).

[5] See footnote 73, order 78-4-121.

minimum quantum of service required by the public convenience and necessity, it is hard to see under National's theory how the Board could properly award a certificate which failed to require at least four round trips a day in this market.[6] Clearly the Board could not (as it has in fact done since the early years of the statute) award a certificate which failed to require any single-plane service at all in the market. Nor could it (as again it has habitually done), having found a need for additional service in one market or group of markets, award new authority in a form which allows the awardee, by tacking or by absence of restriction, to serve numerous additional markets where no such finding has been made. And most certainly it could not, as it has done since the earliest years of the Act in route consolidation and route realinement cases, award authority (frequently unrestricted nonstop authority) in large numbers of city-pair markets where no specific pattern of actual service has been proposed or shown to be needed, and where indeed the existing traffic statistics indicate that single-plane service will probably be uneconomic under most circumstances, simply on the grounds that the grant of such authority will give the carrier "operating flexibility," which flexibility is itself the basis for the Board's public convenience and necessity finding.[7] Thus, the adoption of National's restrictive construction of section 401(d)(1) would retroactively invalidate large portions of virtually all of the currently outstanding air carrier certficates, including the authority under which much of today's city-pair nonstop service is now being provided.

Moreover, such a determinedly restrictive reading of sections 401 (d) and (e) would make it impossible for the Board to carry out its responsibilities under section 102 of the Act. Read literally, these provisions appear to contemplate that each certificate application filed with the Board will be separately and individually processed; yet as soon as the Board in 1938–39 had finished with the original "grandfather" applications, it began consolidating for hearing applications by different carriers for the same or similar authority, and not long thereafter it began the practice of instituting route proceedings on its own initiative or in response to civic petitions and scoping these proceedings in accordance with its own judgment of the public interest, rather than any particular carrier's application. Thus, the great bulk of route cases have focused on the service needs of a particular city, market, group of markets, or geographical area, rather than any individual carrier's application. In such proceedings the Board has traditionally (and with the full approval of the courts) considered first the public need for new service or authority in particular markets or over particular routes, and only thereafter has considered which applicant or applicants should be awarded the requisite authority. In this context, the phrase "such transportation is required" in section 401(d)(1) has been treated as calling first for a determination of whether the public will best be served by a grant or grants of authority in the markets at issue, and only subsequently for a consideration of the identity of the carrier or carriers who will provide the needed service.

As the *State Airlines* case[8] illustrates, the courts have refused to interpret the language of section 401(d) with an inflexible restrictiveness which would impair the Board's ability to further the objectives of the statute. Here the Board will first determine the public need for air service in the Oakland markets at issue;[9] then, having in the present order concluded (subject to any showing of particular circumstances making such action inadvisable in a particular market) that this need will best be met by permissive awards to all qualified applicants, the Board will make such awards. We conclude that such awards will most reliably insure the actual, continued performance of "such transportation" (i.e., convenient, low-priced service in the Oakland markets at issue), even though the identity of the specific carriers who will actually provide "such transportation" at any particular time will remain ambiguous until determined by competitive market forces. We are convinced that this action will best fulfill our statutory responsibilities to the traveling public, and involves no violation of the true intent of section 401.

National recognizes that "[t]he record developed in a well-run route case always involves predictive uncertainty about market conditions in the forecast year. In part, these uncertainties relate to general economic variables (general economic conditions, disposalbe income, propensity to travel) outside carrier control." (Comments in Docket 28848, p. 17.) Difficult as they always are, precise forecasts of the traffic particular carriers could generate and determinations as to which carriers would provide the best service would be particularly difficult for Oakland markets.[10] Indeed, if we were

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[6] Section 401(e)(4) would not preclude the Board from thus pursuing National's interpretation of the Act to its logical conclusion. That section provides that "No term, condition, or limitation of a certificate shall restrict the right of an air carrier *to add to or change schedules* * * * for performing the authorized transportation and service * * *" (emphasis added), but this language would not preclude the Board from fixing minimum standards of adequate service required by the public convenience and necessity, since "add to or change" does not as a matter of logical necessity include "reduce," particularly in view of section 404's requirement of "adequate service." See *Capital Airlines* v. *C.A.B.*, 281 F. 2d 48 (C.A.D.C. 1960); *National Airlines* v. *C.A.B.*, 300 F. 2d 711 (C.A.D.C. 1962).

On the other hand, section 401(e)(4) does appear to preclude the Board from imposing a maximum level of service on a new carrier in a market. This seems to us to undercut National's argument that the framers of the Act feared excessive competition above all else. Destructive competition, if likely to occur at all (which we have concluded it is not, under present-day conditions) would appear to be just as likely to result from excessive scheduling by a limited number of carriers in a market, as from the competitive struggles of a larger number of carriers. Why then would Congress have deprived the Board of a convenient tool to present scheduling in excess of the requirements of the public convenience and necessity, if excessive competition was its all-encompassing fear?

[7] In one of the early route consolidation cases, the Board consolidated separate grandfather routes end-to-end in a manner which eliminated required stops at former route junction points, and thus granted unrestricted authority (subject to the Board's then existing nonstop regulation, see Order 78–4–121 at p. 48, fn. 56) in numerous transcontinental markets, at a time when neither the existing traffic volumes nor the aircraft the carriers then possessed justified or permitted actual nonstop operations. *American Air. et al., Route Consolidations*, 7 CAB 337, 345 (1946). ("Granting the applications would result in single-route transcontinental service by American, TWA, and United between east coast and west coast cities of greatest population *with the likelihood* that such service *would eventually be provided* on a nonstop basis.") (Emphasis added.)

[8] *C.A.B.* v. *State Airlines*, 338 U.S. 572 (1950); see Order 78–4–121 at p. 45, fn. 51.

[9] Few if any of the respondents, incidentally, appear to question the existence of that need.

[10] National's argument, using traffic figures in Order 78–4–121, Attachment D, to show that three Oakland markets already receive more service than they can support, has no validity. As we stated in that order, the figures we used in Attachment D were not designed or intended to indicate the probable total amount of traffic which would be carried over each segment (we assumed *no* connecting or flow traffic), or the actual costs of serving each market; they only show that even under very *conservative* assumptions, a given market could support service.

National also argues that, once we certificate new carriers in this proceeding, subsequent applicants cannot be certificated because Oakland's need for service will have been filled, and that we will therefore not be simulating true free-market conditions. What this argument ignores is our basic conclusion here that Oakland's needs are most likely to be met if the greatest possible number of qualified carriers hold authority in the markets at issue. This conclusion will continue to apply even after the present proceeding is completed, and future applicants will be able to rely on it in seeking au-

Footnotes continued on next page

to follow National's advice and certificate only the carriers we could be certain the markets would support, we could very easily shortchange the traveling public, since forecasting Oakland's response to innovative service and fare proposals would involve more than the usual amount of guesswork. This stems from its history of underutilization and the incumbents' past failure to test fully its demand potential.[11] In view of our belief that Oakland needs the maximum service possible in order to revive its airport, it would not be consistent with the public interest artificially to restrict access to it.[12]

Several Board and court decisions are cited as holding that the Board must engage in the carrier-selection process. In our opinion, however, these opinions must be interpreted in light of Board policy at the time they were decided, and not be used to draw inferences about questions which were not before the Board or the courts for decision.

TWA, the Houston parties, the Texas Aeronautics Commission, and National, for example, refer to statements in the Supreme Court's opinion in *CAB* v. *Delta Air Lines, Inc.*, 367 U.S. 316 (1961) that the Act was designed to assure security of route in order to protect the carriers' investment in operation. Rather than holding that the Board should always be guided by a fear of destructive competition, even when that would cause us to fail in our obligation to promote competition to the fullest extent required in the public interest, the Supreme Court's decision in *CAB* v. *Delta* tells the Board that it cannot, without a hearing, take away a license after it has gone into effect. The Court's stress on "security of route" is logical in that context, but the interpretation of this concept urged by the opponents of the *Oakland* policy simply does not fit today's air transportation system, the way regulation is administered by the Board, or the specific actions we contemplate here. We are not proposing to modify, let alone take away, any authority granted under existing licenses.[12a] Other than to support the abstract statement that the Board is supposed to promote "regulated competition," we fail to see, therefore, why the opponents of the *Oakland* policy cite this language. Can they mean that the Board is supposed to protect them completely from competiton? Surely not, for even they admit that the Board is supposed to assure the benefits of competition. The danger, they argue, lies in *destructive* competition. As we discussed above, however, no one argues that there will be destructive competition at Oakland if a policy of multiple permissive entry is applied there.

The danger in citing court statements out of context is shown by Delta's, Houston's, Texas', and National's reference to *Delta Air Lines* v. *CAB*, 275 F. 2d 632 (D.C. Cir. 1959), as support for the contention that the Board must decide how many carriers a market can support and certificate only that man. Houston argues that the court made the following statements as a comment "on whether the Board is empowered to award more authority than the market [can] absorb":

> The public interest * * * requires that, if there be only enough business to support operation by one licensee, there must be only one licensee (275 F. 2d 638).

In fact, however, there was no issue before the court as to the number of carriers the Board could certificate if it wished, and the court did not hold in *Delta* that the Board could select only one carrier to serve the market in question. It merely recognized that, given the policies the Board was then applying (i.e., in most instances awarding authority to only one new carrier at a time), there was a good chance that the applications involved in the Board's decisions would prove to be mutually exclusive. The court held that the Board had misled the applicants on this point and, in violation of *Ashbacker* principles, had denied them a fair opportunity to show that the applications were mutually exclusive under the Board's own standards.[13] The court's citation of its own decision in *Carroll Broadcasting Co.* v. *FCC*, 258 F. 2d 440 (D.C. Cir. 1958) provides further insight into its thinking. There it said:

> Competitors may severely injure each other to the great benefit of the public. The broadcast industry is a competitive one, but competitive effects may under some sets of circumstances produce detriment to the public interest. When that happens the public interest controls.* * * [w]e think it is not incumbent upon the Commission to evaluate the probable economic results of every license grant. Of course the public is not concerned with whether it gets service from A or B or from both combined. The public interest is not disturbed if A is destroyed by B, so long as B renders the required service. The public interest is affected when the service is affected. (258 F. 2d 443.)

We have already discussed the unlikelihood of destructive competition at Oakland and in order 78-4-121 we indicated in detail why the public interest will be better served by a policy of multiple permissive entry at Oakland. Nothing the court says in *Carroll* compels us to take a different approach; rather, the court's approval of healthy competition reinforces our opinion.

Delta, Texas, and National cite another court decision which they argue compels the Board to engage in carrier selection. The language in *Delta Air Lines* v. *CAB*, 442 F. 2d 730 (D.C. Cir. 1970), to which they refer is as follows:

> * * * [w]here there are new routes involved, the first inquiry is logically whether

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Footnotes continued from last page

thority to serve these markets, unless and until the time arrives when we conclude on the basis of persuasive new evidence that the continued authorization of additional new carriers is no longer required by the public convenience and necessity.

[11] See Order 78-4-121, pp. 4-13.

[12] We found, in support of certificating all fit, willing, and able applicants in the *Chicago-Midway Low-Fare Route Proceeding*, Order 78-7-40, July 14, 1978, that permitting service by many carriers in the markets will maximize traffic stimulation at Midway. We found that "the overall impact of a nonrestrictive approach is to maximize the traffic available to both the new entrants and incumbent carriers. Equally important, carrier competition will permit the public to select the service it wants." (at p. 3)

[12a] In *American Airlines* v. *C.A.B.*, 359 F. 2d 624, 631 (C.A.D.C. 1966), *cert. denied*, 385 U.S. 843, the D. C. Circuit sitting *en banc* cistinguished the Supreme Court's holding in *C.A.B.* v. *Delta* as follows (emphasis added): "The 'security of route' principle thus gives protection to an individual carrier that has made an investment in order to carry on the certificated service, assuring it that the CAB will not worsen its position *by action addressed against it individually, by prescribing inferior routes.* Since the supreme Court gave no indication in *Delta* that it intended to depart from the *Storer* doctrine [*U.S.* v. *Storer Broadcasting Co.*, 351 U.S. 192 (1956)], we see no basis for reading *Delta* as implying that the mere fact that licensees will be affected renders general rulemaking an impermissible means of agency action governing all carriers, or an appropriate general class of carriers."

[13] National argues that continuous application by the Board, with judicial enforcement, of the *Ashbacker* doctrine (*Ashbacker Radio Corp.* v. *FCC*, 326 U.S. 327 (1945)) proves that need-for-service findings must be related to a particular applicant, since by applying *Ashbacker* principles, the Board admits that it is harder for a subsequent applicant to receive authority in the same market. This is the same as saying that because the Board has applied a particular policy in the past, it is forever bound to it. This, however, is at odds with the flexibility the Congress and the courts have accorded to administrative agencies (see footnotes 18-19 below and accompanying text). Nothing in our policy here would prevent an award to a later applicant in any of these Oakland markets. (See footnote 10 above.) In fact, the policy employed here would undoubtedly make it easier for subsequent fit applicants to receive authority there. To repeat our discussion in order 78-4-121 on this same point, "all *Ashbacker* holds is that *if* applications are mutually exclusive *then* they must be heard and decided contemporaneously. The syllogism's minor premise, mutual exclusivity, is established not by anything in the Act but by the Board's longstanding policy of treating applications for the same authority as mutually exclusive in most situations, and its specific findings of mutual exclusivity 'as a matter of economic fact' in numerous cases." (Footnote 49a, p. 44.)

the markets to be served actually need new or additional air service. This is not a perfunctory *pro forma* inquiry; the findings of a public need for the air service, with specific details as to the quantity, quality, frequency, type, equipment required, facilities available, etc., is a fundamental starting point.[14] (442 F. 2d 733.)

Viewed in the abstract, we can see why the opponents of our *Oakland* policy use this language to bolster their argument,[14] but the footnote to the court's statement brings out clearly the assumptions under which it was working:

The court then went on:

An unsound decision on route allocation, awarding a route to a carrier when neither the need justifies it nor does the carrier have the ability to service it, hurts all concerned: The public interest by saddling the country with an inefficient and distorted air transport system, and perhaps an augmented subsidy; the carrier which would most efficiently service the route but which is barred from doing so; the "successful" carrier which may have a liability on its hands rather than what it optimistically envisioned as a financial asset. (442 F. 2d 733.)

It is evident from these passages that the court was taking the Board's own carrier-selection policy as given and discussing the possible ramifications of Board decisions made under such a policy which do not fairly and as accurately as possible determine which carrier can best meet the needs of the market. The problems the court envisioned are inherent in carrier selection by the Board, and indeed they are persuasive reasons for avoiding carrier selection to the extent we are able to do so (see order 78-4-121, pp. 35-42). The court did not hold that the Board cannot decide that carrier selection is not in the public interest in a particular situation—an issue which was in no sense before it—but only that, when the Board engages in carrier selection, it must do so on a fair, impartial basis. In the situation before the court for review, the Board had updated the economic forecast for one carrier (the winning applicant) but not those of the other applicants with which it was being compared. Not only was the Board's forecast extremely suspect, but the examiner's decision showed a loss and subsidy-need increase for the carrier chosen by the Board.[15] Interestingly, on remand, the Board decided to certificate two carriers in the market in question, even though it could not find that both carriers would be profitable.[16]

Similarly, Braniff, Delta, TWA, Houston, Texas, and National misconstrue the court's decision in *Continental Air Lines* v. *CAB*, 519 F. 2d 944 (D.C. Cir. 1975). It was in response to the Board's argument that

competition is not *per se* favored where it endangers other policy goals in the public interest, such as achievement of efficient, economical service or the fostering of sound economy of operations. (519 F. 2d 952.)

that the court stated:

The legislative history and the early CAB decisions indicate that there is no presumption of competition *per se* because competition *may* prove uneconomical and destructive of the healthy development of the industry if the relevant market is too small to support competing carriers. But when sufficient traffic exists to support competition, certification of competing carriers is mandated by the Act as providing the best means of effectuating the other public interest goals contained in § 102. (519 F. 2d 954.) (Emphasis supplied.)

The court's statement must be interpreted in that context. The Board was then arguing that it could take a restrictive view of the necessity for competition under its general policy of comparative selection, and the court told the Board that it must favor competition unless it would be destructive. The court was not passing on a multiple permissive entry policy and clearly was not indicating to the Board what situations required a finding of a likelihood of destructive competition. We have found in this case that multiple permissive awards will not lead to "uneconomical and destructive" competition at Oakland and that finding has not been rebutted. Nor was the court saying that competition effectuates the public-interest goals of section 102 only when there is sufficient traffic to support the precise number of carriers authorized to serve the market. To have so found would have been to define competition in an impermissibly restrictive sense. A market is "supporting competition," in our view, whenever the Board, through regulatory action, is successfully encouraging competitive behavior in the market. Under such conditions those carriers actually serving at any given time perceive that if they fail to meet the public's needs there are potential competitors ready and able to enter the market and attempt to do so.[17] This is "competition" even if only one carrier happens to be serving the market at the time, so long as that carrier is responding to a perceived threat of new entry.

In support of their restrictive interpretations of our statutory authority, the opponents of our *Oakland* policy refer us to court decisions likening the Board's regulatory responsibilities to those of an agency regulating a public utility. There are many features of the air transportation system, however, that make the application of traditional public-utility type regulation unrealistic, undesirable, and unnecessary. Apart from the obvious differences in mobility of the major capital asset, in most situations an air carrier with unused authority can beneficially influence the behavior of the carrier or carriers serving the market because of the ease of inaugurating competitive service. The tracks, pipes, or wires of the public utility take time and much capital investment to construct and, once in place, are typically immobile. While most of the parties citing these court decisions pay lip service to these differences by stating that Congress and the courts do not want the Board to treat air transportation as a natural monopoly, but to promote "regulated competition," the meaning they give to the latter resembles the exclusive-franchise theory of public-utility regulation and fails totally to recognize and take into account the similarities between the air transportation system and many businesses in which exclusive or nearly exclusive franchises are not awarded. It would be incongruous were we, as National urges, required to follow the interpretations of administrative agencies which regulate true public utilities.

We also note that our observation about the judicial decisions cited in opposition to our show-cause order in the *Piedmont Boston-Entry Application* (see order 78-8-97, p. 16) is relevant here. All the decisions offered in support of the argument that the Board cannot use multiple entry to advance the public-interest goals of the Act

arose in the context of a relatively restrictive entry policy adopted by the Board itself in the early days of the 1938 Act, the conceptual framework of which policy contin-

[14] In the Bureau Counsel's Request for Evidence issued after the prehearing conference on 19 October 1967 detailed information was requested regarding carrier schedules and fares, air traffic, carrier financial forecasts, carrier operating statistics, present and proposed equipment, airport facilities, and economic characteristics and population trends of the cities involved. These criteria reflect the true nature of the initial inquiry *in a comparative hearing.* (Emphasis supplied.)

[14] The cited language is of course pure dictum, since the issue before the court was whether the Board had selected the right carrier to serve the routes at issue, not whether there was a need for service. The restrictive implications of this language were in any event inferentially repudiated by the same court in the *Continental* case discussed below.

[15] Order 73-2-90, Feb. 23, 1973. See order 78-8-97, p. 14, fn. 28, for a fuller discussion of this case.

[16] The Board's action in granting Southern permissive nonstop authority in the Memphis-Miami market, notwithstanding its finding that Southern would probably be unable to compete with Delta, was expressly approved by the same court in *Southern Airways* v. *CAB*, 498 F. 2d 66 (C.A.D.C. 1974).

[17] Moreover, it is noteworthy that in *Continental*, the court was in effect holding that the Board had exceeded its discretion to restrict competition for protectionist reasons.

ued to be employed by the Board in virtually all of its later decisions until fairly recently, even though the Board's actual entry policy during those years varied from extremely restrictive to quite liberal and back. Court decisions applying the Act quite naturally assumed the conceptual framework and underlying assumptions adopted and proclaimed by the Board itself, the more so since no party to the court appeals was contending for a contrary set of assumptions. In those circumstances, the courts' concern was to see that the Board followed procedures which ensured fairness to all parties in the context of the Board's own conceptual framework and announced entry policy. We do not think it follows from these court decisions that the Act precludes the Board from adopting a fundamentally different set of assumptions.

Braniff, TWA, and National cite a few past Board decisions and claim, in Braniff's words (Braniff comments, p. 9), that the Board has "since its inception interpreted § 102 to permit competitive awards only where the traffic would support the additional carriers." This simply is not true, as shown by the cases we cited in order 78-4-121 (p. 46), and have discussed above (p. 10). Moreover, as we recently stated in order 78-8-97, August 17, 1978, on Piedmont's entry into Boston, "numerous trunkline routes have been awarded in past cases without any express finding of profitability, and a considerable number have been awarded in the face of clear indications that they would undoubtedly *not* be profitable at the outset or for some years to come." (See fn. 26, p. 13 of that order for case cites.) Despite these cases, we recognize that the policy we are adopting here "represents a far-reaching departure from the Board's customary practice in route certification cases during the nearly forty years of its history" (order 78-4-121, p. 21). We must also keep in mind, however, that the policies of administrative agencies change; indeed, the Board's have changed, sometimes substantially, over the years, primarily as a result of prevailing economic and social circumstances.[18] The fundamental requirements are that whatever policy we adopt must be consistent with the statutory mandate, and that, when the Board alters that policy, it must articulate clearly the reasons for doing so.[19] As we demonstrate here and in order 78-4-121, our adoption of a policy of multiple permissive entry for certain Oakland markets meets these requirements.

In sum, we conclude that nothing in the legislative history of the Act, the Act itself, or court interpretations of both precludes us from granting authority in the Oakland markets at issue to more carriers than we believe the markets will be able to sustain at any one time. Indeed, awards to more carriers than the market can simultaneously sustain have been specifically upheld by the courts.

Interestingly, several parties who argue that the Board legally cannot at the outset, let market forces decide which carrier or carriers can provide the best service, argue that awards of backup authority are legal as long as they are awarded on a one-for-one basis and the authority of the first carrier terminates at the same time as the second one's becomes effective.[20] In other words, they apparently view the Act as allowing the traveling public rather than the Board ultimately to determine through the marketplace which carrier shall serve a route, so long as this is done through a long-drawn-out, administratively inefficient process of consecutive backup awards, rather than through the relatively simple and straight forward process we have proposed in our multiple permissive entry policy. We cannot believe that Congress has mandated such indirection. The opponents' concession that the Board may, by making backup awards, admit and make provision for the possibility that its choice of carrier may not be the best choice or the marketplace's choice, thus seems to us to undermine the argument that the Board must always engage in the process of carrier selection in the first place.

Permissive Awards

The second general legal argument against the policy we proposed in order 78-4-121 is that the Board has no power to made a carrier's authority at a point or over a two-point segment completely permissive. Delta, National, TWA, and Texas take this position. Although we have dealt with this argument before (see e.g., *Las Vegas-Dallas/Ft. Worth Nonstop Service Investigation*, order 78-7-116, July 21, 1978), we will discuss some of the specific contentions made here and the concept of permissive authority in the context of this case.

All four parties cite the abandonment and adequacy-of-service provisions of the Act (§§ 401(j) and 404(a)(1)) to argue that, once the Board has found that particular authority is required under § 401, the carrier awarded that authority has an obligation to provide it and cannot abandon the market without Board approval. Thus, they argue, Congress clearly has made permissive authority at a point illegal.

We see no inconsistency between awards of permissive authority in this or any other case and the statutory requirements that carriers provide adequate service (section 404) and obtain Board permission before suspending service or abandoning "any route or part thereof" (section 401 (j)). The fact that certificate authority per se is permissive does not vitiate what Congress in section 404 clearly intended to be a carrier's continuing obligation to furnish "safe and adequate service, equipment, and facilities" in accordance with its certificate. In the first place, an airline's freedom to choose whether or not to provide service does not negate its responsibility, once it determines to exercise its authority, to make sure that its service, equipment, and facilities are "safe and adequate." Moreover, we recognize that in some circumstances the adequacy standard may require single-plane or nonstop service to a permissive point, or over a permissive segment, just as in the past it has been held to authorize the Board to order a carrier to schedule flights in on-segment city-pair markets that it had no mandatory certificate obligation to serve. *Baltimore Adequacy of Service Investigation*, 30 CAB 1215 (1960), *aff'd, National Airlines* v. *CAB* 300 F. 2d 711 (D.C. Cir. 1962).

The Board has held that adequacy of service under section 404 must be evaluated on the individual facts of each case; on the basis of a market-by-market appraisal rather than the general level of service at a city; and on an analysis of the size and economic characteristics of each market, the aggregate of service being provided by all carriers, and the purpose for which each was certificated. *Fort Worth Investigation*, 27 CAB 260 (1958); *Toledo Adequacy of Service Investigation*, 30 C.A.B. 169 (1960), *aff'd. Capital Airlines* v. *CAB*, 281 F. 2d 48 (D.C. Cir. 1960); *Flint-Grand Rapids Adequacy of Service Investiagation*, 30 CAB 1120 (1960); and *Baltimore Adequacy Investigation*, above.[21]

Since the test of "adequacy" looks to the traffic and economic characteristics of markets and the overall quantum of service they receive, we see no reason why we cannot conclude, as we do here, that the best way to insure continued adequate service at Oakland is through multiple competitive authority, for the same reasons we have

[18] *American Trucking Associations* v. *Atchison, T. & S.F.Ry. Co.*, 387 U.S. 397, 416 (1967).

[19] *Greater Boston Television Corp.* v. *FCC*, 444 F. 2d 841 (D.C. Cir. 1971). "The administrator is expected to treat experience not as a jailer but as a teacher." *Shawmut Ass'n.* v. *FCC*, 146 F. 2d 791, 797 (1st Cir. 1945).

[20] Delta, TWA, and Houston.

[21] While each carrier has an individual obligation to provide adequate service, that obligation is tested by looking at the market's overall level of service. This follows from the need to take all facts and circumstances into account. However, not all aspects of adequate service are to be judged on an aggregate basis: "If the apparent inadequacy * * * were to be of a positive or affirmative sort—e.g., undependability, bad food, discourteous treatment, etc.—the fact that another carrier in the market provided service free of such defects would have little, if any, compensating effect * * *." *Fort Worth Investigation*, 27 CAB at 267.

already given in finding multiple entry to be conducive to the fullest and most rapid development of the Oakland markets. There is nothing new in this approach, since competition has always been the Board's primary tool for insuring adequacy of service. In the 1960 *Baltimore* case, cited earlier, the Board acknowledged its principal reliance on competition to maintain adequate service during the previous 20 years; and in another adequacy case of that period (*Fort Worth*), it expressly recognized the value of even unused competitive authority:

> [T]he presence of a competitor free to act if established carriers lag is in itself of value to the public, and will normally tend to insure that adequate service to the public will be provided in the market in question. (27 CAB at 266.)[22]

In fact, except for a brief spate of formal adequacy proceedings between 1958 and 1961, cited above, the Board has relied on competition to insure adequacy to the virtually exclusion of formal adequacy investigations. Since we are now placing even greater emphasis on competition than in the past, there is no reason to expect a change in that approach; however, we do not foreclose the possibility that in some unforeseen future circumstances the Board may decise to investigate the adequacy of service in Oakland markets if competition alone fails to maintain it.

As for a carrier's obligation under section 401(j) to seek Board approval before suspending service or abandoning "any route or part thereof," we have already shown that it does not prohibit the Board from granting discretionary certificate authority. Otherwise, the great flexibility that carriers have long enjoyed operating between and among points on the same segment would be impossible. We see no reason "to assume that the Act permits that kind of operating flexibility and yet prevents the Board from making a point or segment wholly permissive if the public convenience and necessary so require." *Las Vegas-Dallas/Fort Worth, supra*, p. 12.

The suspension, deletion, and abandonment provisions of section 401 (g) and (j) are designed to prohibit a carrier from eliminating all service over a route or portion thereof purely at will without Board authorization, and to provide communities and other interested parties with an opportunity to argue that service should be maintained. But nothing in the Act prevents the Board from authorizing a carrier to suspend service at or abandon a new market or point at the same time as it grants it the right to serve that market or point in the first, place—in other words, from making a permissive award—as long as the proper public convenience and necessity/public interest findings are made, the procedural prerequisites of notice and hearing are met,[23] and those opposed to a grant of permission to suspend or abandon service (and who therefore favor mandatory rather than permissive authority) have an opportunity to present their opposing views. Since these procedural and substantive requirements have been met here, we find that permissive awards are entirely proper.

In view of all this, section 401(j) requires a carrier to obtain separate Board approval of a discontinuance of service only if that service is required (not merely authorized) by its certificate. There is accordingly no need for further Board approval where the carrier fails to provide service the authority for which is permissive. This is obviously true where a carrier, for example, fails to provide nonstop service in the typical city-pair market where its nonstop authority is permissive.

The opponents' arguments on the supported unlawfulness of permissive authority, moreover, completely ignore the massive practical fact that, after 40 years of route regulation, almost the entire certificated domestic route system is built up of authority which, for all practical purposes, is wholly permissive in nature.[24]

The strained interpretation these four parties give to the Act, if valid at all, would logically apply to any type of newly-awarded authority, not just that at new points, or over new two-point segments. Thus, § 401(j) refers to the abandonment of "any route, or part thereof," not just those parts awarded in the form of two-point segments.

The Board has for many years favored the award of permissive, rather than mandatory, authority where the market at issue is already on-system or on-segment for the successful applicant; this is true even where the Board finds an affirmative need for additional service in the specific market at issue.[25] Of course, the objecting carriers have been granted such permissive authority in many discrete city-pair markets. Yet they do not argue that such a finding carries with it an obligation to serve those markets. The only difference between the permissive authority these carriers have and the permissive authority they object to is that the former requires some scintilla of service at each point on a linear route segment.[26] That, however,

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[22] As previously noted, this "competitive stimulus" rationale was later expressly approved in *Southern Airways* v. *C.A.B.*, 498 F. 2d 66 (C.A.D.C. 1974).

[23] We have already explained that the statutory hearing provision does not mandate an evidentiary hearing on the general policy question of whether multiple permissive awards are required by the public convenience and necessity. See order 78-4-121, p. 57. No party has suggested or attempted to demonstrate that the argument-type procedures we have provided are inadequate for determining this policy issue, or that an evidentiary hearing on it it required.

[24] Indeed, National and Texas do not seem to recognize the existence of any permissive authority at all. National states "When the agency has found such services were required by the public convenience and necessity, as that term is construed under the relevant statute, then the agency issues a certificate which not only authorizes, but requires, the applicant to provide the service." Similarly, Texas argues, that ". . . the courts are of the uniform opinion that the Board cannot satisfy its statutory duties by the grant of permissive authority." As we show in the text, these contentions are wholly untenable.

[25] See, e.g., *Allegheny Airlines Route 97 Investigation*, 50 CAB 94, 104 (1968); *St. Louis-Dayton/Columbia/Pittsburgh Subpart M Proceeding*, 53 CAB 624 (1970); *North Central Madison-Chicago Nonstop Service Case*, 44 CAB 315 (1966); *Eastern Air Lines-Piedmont Aviation Route Exchange*, Order 77-12-76, December 14, 1977. See also *Southern Airways Route Realignment Investigation*, Order 73-2-90, February 23, 1973, at 18, affirmed, *Southern Airways* v. *CAB*, 162 U.S. App. D.C. 115, 498 F.2d 66 (1974), where the court (in fn. 21 to its opinion) specifically approved the Board's grant of permissive authority to Southern on a "competitive stimulus" rationale, notwithstanding the Board's finding that Southern would be unable to compete in the market in question unless Delta (the principal awardee) defaulted on its service promises. (The same footnote noted the existence of Eastern's unused permissive authority in the market.)

[26] With few exceptions, route authority has been conferred in the form of long linear segments describing a terminal point, one to several dozen intermediate points, and a terminal point (see section 401(e) of the statute). Unless specifically conditioned, the license permits the carrier to operate between any two points named at any of the qualitative levels of service, i.e., nonstop, one-stop, multi-stop, or connecting. Even a connection involving a backhaul is considered to be the "provision of service" for purposes of discharging the certificate obligation, and the Board is specifically proscribed from regulating schedules or specific aircraft types. On the other hand, it has been customary for the Board to include in most domestic certificates a clause providing that "the holder shall render service to and from each of the points named herein," and this clause (rather than the statute per se) has made it necessary for the carrier to obtain Board permission under sections 401 (g) or (j) of the Act before discontinuing all service at the point. However, this is not, as a practical matter, a meaningful service requirement since the carrier is free to provide token operations to whatever point on the segment it chooses to serve, and virtually any city-pair service it chooses.

Under these circumstances, it is important to recognize that incumbent carriers in general and large incumbent carriers in particular have enjoyed an advantage over new entrants (and to a lesser extent large carriers have had an advantage over smaller). This is because new route extensions in the past have tended to involve mandatory authority at a new point for new entrants and some-

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is a distinction of small practical or legal significance. The Board grants new authority on the basis of the need for service in city-pair markets and not on the basis of need at a single point. There is no such thing as a public need for service "at" a point. Every airline passenger wants to fly to some specific destination; all public need for service is therefore in specific city-pair markets. A need for service—particularly for single-plane or nonstop service—between A and B is not satisfied by service between A and C.

As long as a carrier can enter and leave a particular city-pair market at will (as is the case in nearly all markets), it is effectively under no legal obligation (except possibly under section 404, see above) to provide the services permitted by the Board's grant of authority and to which its original route-case proposals and evidence were directed. "Market need" is not reasonably satisfied because a carrier is obligated to serve the individual points. In short, the objectors cannot be seriously heard to contend that permissive awards are inconsistent with the requirement of section 401(d)(1) that the authorized transportation be "required by the public convenience and necessity." If true, the argument would bring into question permissive city-pair authority repeatedly found lawful, authority which exists in over 90 percent of the domestic city-pair markets, and the only kind of authority which exists in many of the largest of them.

Moreover, even where a carrier's authority to serve a particular market is mandatory in form, the service obligation is of little value to the community (see Order 78-4-121, p. 50), particularly when both the Board and the carriers have considered one weekly round trip sufficient to fulfill whatever service obligations the certificate imposes.[27] Thus, the permissive nature of the Oakland awards we will make will not give the public less of a guarantee of genuine service than it would have under so-called "mandatory" authority. In fact, the reduced procedural burdens and permissive authority we contemplate for Oakland may encourage carriers to attempt service in more marginal markets than they otherwise would have. The net result we are seeking is to bring more price-competitive and more market-responsive air transportation to a maximum number of people, an aim which is fully consistent with the public convenience and necessity. The position of the opponents of this policy, taken to its logical conclusion, might well require the elimination of all existing permissive authority, the establishment of mandatory minimum standards of service, and the undoing of all past and current route realignments. It could require depriving carriers of a large part of their operating flexibility and the substitution of Board judgment for carrier management discretion as to levels of service and schedules on routes all over the country.[28]

Delta maintains that a carrier's obligation to serve a point (as distinct from a market) can be significant. It argues,

> If carriers may withdraw from the city at will, where is the protection for airport revenue bonds? What protection do travelers to or from that city have that some service will be provided over routes and in markets for which a public need was found?

On the second question, as our remarks above demonstrate, the requirement to provide some service in reality imposes no meaningful obligation. Moreover, we believe that, if there is in fact a public need for service, the award of multiple permissive authority will better insure its provision than will the imprecise and restrictive practice of carrier selection with all its attendant rigidities in matching the right carrier and services with changing public desires.

As for the first question, it is our view that the issuance of wholly permissive authority will not, to any significant extent, be the cause of carriers withdrawing from cities in circumstances where they would not find it easy to withdraw today or would not have found it easy in the past. The Board's past policy on permitting suspensions and deletions of service has almost without exception been extremely liberal; there are few examples of carriers desiring to cease serving a point being compelled to continue doing so for any prolonged period.[29] Moreover, we believe that by authorizing all qualified applicants to serve markets here at issue on a permissive basis, we will be maximizing the likelihood that, should any particular one withdraw from Oakland, its services will be replaced by those of a qualified carrier, quite possibly one that is more efficient or better situated to satisfy Oakland's service needs on a profitable basis.

Applying Delta's argument to the facts here, no one has suggested that Oakland's revenue bonds will be placed in jeopardy by our porposed grants of permissive authority, as they clearly have not been heretofore by the almost completely permissive nature of the nine incumbent carriers' authority at Oakland, which has not prevented the city from developing an excellent airport facility. While Houston does appear to argue that something of the sort will occur at Houston, those comments are directed to the application of multiple permissive entry policy on a large scale, and we do not understand Houston to argue that permissive Oakland-Houston authority will jeopardize its airport financing arrangements. More to the point, the issuance by the Board of permissive authority will not release any carriers from any contractual or leasehold obligations to airport authorities they have heretofore undertaken, nor we believe will it necessarily keep carriers from entering into such obligations in the future. After all, unregulated businesses routinely enter into long-term leasehold commitments to property developers (including governmental authorities), notwithstanding their lack of protection against new competitors and their complete legal freedom to leave markets at will. Finally, we are not persuaded that long-term leases of the existing kind, however desirable, are essential to the creation and maintenance of adequate airport facilities.

Having concluded that nothing in the Act precludes the policy we proposed in Order 78-4-121 as a matter of law, we now turn to an analysis of the

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times for smaller carriers, whereas improved authority was often conferred on larger carriers by merely removing a restriction to serve markets already named on one or more segments or routes, thereby almost always creating permissive city-pair authority.

[27] Both Delta and National have "mandatory" segments (Miami-San Francisco and Atlanta-San Francisco, respectively) on which they provide as little as one or two round trips per week. We note, incidentally, National's recent application to make its Atlanta-San Francisco segment permissive, in which it argues that the public convenience and necessity require such action.

[28] Delta and Texas cite *City of Lawrence* v. *CAB*, 343 F.2d 778 (D.C. Cir. 1965) in support of their position. That case, however, involved the deletion of a point from a carrier's certificate on the grounds that another carrier held authority there and could adequately meet the public's needs, when in fact the services of the two carriers were not the same. Despite the Board's findings that its action would benefit the public in the long run, it appeared that a significant number of travelers would lose service. The court's main concern was with the inadequacy of the Board's explanation of its action, and in particular its unexplained departures from previous policies. We see no relation between that case and the situation here.

[29] In the "area" cases of the 1940's and 1950's the Board permitted the trunklines to withdraw from several hundred small and medium-sized communities, most but not all of which were transferred to local service carriers. In the late 1960's and early 1970's the process was repeated as the local service carriers were permitted to terminate service at several hundred points (many the same ones previously dropped by the trunks), in most but not all cases in favor of reliance on commuter carriers, either exempted or (in a few cases) newly certificated. Notwithstanding this general policy of providing replacement service by a smaller carrier, a considerable number of once certificated communities have lost air service altogether, usually because of a paucity of traffic.

objections posed on economic and policy grounds.

ECONOMIC AND POLICY OBJECTIONS

A number of parties (mostly civic parties and State aeronautical agencies) continue to argue that the existence of dormant authority in the Oakland markets here at issue, and in other markets elsewhere, will discourage new carriers from entering them. They accordingly urge us to adopt a policy of eliminating existing dormant authority in each market where we grant new authority. They further urge us to make the new authority mandatory, or at least to condition it so that it will lapse if service is not provided.[30]

We are not prepared to say that there never was or will be a situation in which a potential new carrier was deterred from entering a market by the existence of dormant authority in the hands of another carrier. If in any future case the interested parties are able to show the presence or likelihood of such deterrent effects, we will retain our power to take corrective measures, including the deletion or restriction of the dormant authority in question.[31] But we remain wholly unconvinced that such deterrence is a common phenomenon, or more specifically that it is likely at Oakland. Moreover, the solutions offered by the civic parties would throw away many of the prospective benefits of multiple permissive authority, and would entail serious dangers of uneconomic behavior by carriers. Accordingly, we do not find in this argument about the asserted effects of dormant authority a valid reason for not adopting a policy of multiple permissive entry, either in general or at Oakland in particular.

Thus, although there may be future occasions when we will find that the public convenience and necessity will require us to delete outstanding dormant authority to achieve the optimum level and quality of service, we expect such occasions to be the exception, and believe that in most cases the continued existence of dormant authority will be conducive to the public good. We believe events will justify the continuation of our past policy of deleting or suspending dormant authority in only a small minority of the cases brought before us.

In view of the persistence of the argument that dormant authority deters new entrants, it is remarkable how few actual cases are cited in support. We discussed in Order 78-4-121 (pp. 11-12, 20) in some detail why we do not believe that the existence of extensive dormant authority at Oakland has been one of the causes of that community's deficient service, and what we considered the true causes to be. We pointed out that in several instances small carriers have shown no hesitation in entering Oakland markets notwithstanding the dormant (or indeed, in the case of PSA in the Oakland-Los Angeles market, the active) authority of much larger carriers. We discussed in particular Hughes Airwest's successful entry into the Oakland-Las Vegas market notwithstanding the dormant authority of Western, Delta, National, and TWA, and indeed in face of Western's apparent attempt to preempt the market while Airwest's application was pending. This clearcut example of Airwest's willingness and ability to challenge one much larger carrier and to ignore the dormant authority of several others leaves us skeptical about the asserted unwillingness of Airwest, as reported by the Utah parties, to enter the Salt Lake City-Portland market simply because a larger carrier has dormant authority there. No one has offered any plausible explanation of why the same carrier's behavior should supposedly be so different in markets having as little obvious difference as Salt Lake City-Portland and Oakland-Las Vegas (or Oakland-Phoenix, also discussed in Order 78-4-121).[32]

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[30] The California parties describe this as a "use-it-or-lose-it" condition. We hesitate to adopt this graphic term in the present context for fear of confusion with the Board's old "use-it-or-lose-it" policy of the 1950's and 1960's, enunciated in the *Seven States Area Investigation*, 28 CAB 680, 755 (1958), which had to do with the minimum level of enplanements newly certificated communities were expected to produce in order to continue receiving subsidized air service.

Birmingham takes a slightly different approach; it urges that each applicant be required to file a statement of commitment to initiate service and detailed descriptions of the service proposed. Since we fully expect that not all carriers awarded authority under a multiple permissive entry policy would institute service, indeed, that it would not be economic for all carriers to do so, such a requirement would be inconsistent with the way we are conducting this case. Alternatively, Birmingham requests that each applicant be required to file a statement of its plans for initiation of service on the routes applied for; similarly, Oakland requests, in its petition for reconsideration, that the evidence requests in Attachments H and I of Order 78-4-121 be expanded to include the following:

"1. How soon after certification does the applicant expect to initiate service in each market; what type equipment will be operated and at what frequency?

"2. In light of the above schedule, what are the applicants' requirements for counter and gate space, and other airport facilities or services, at the Oakland International Airport?" We think these are reasonable requests (they appear to cover Birmingham's alternate request as well) and we will therefore add them to the information requested in Attachment H (there is no need for duplication in Attachment I). The communities must understand, however, that it may be impossible for some carriers to decide whether to enter a market or how much service to provide until they know what their competition will be. As a result, the answer of some applicants to these questions may be that their plans are too indefinite to describe. Such an answer will be considered sufficient.

[31] A distinction might be drawn between (a) situations in which authority currently not being used was awarded in specific contemplation that it would not or might not be used, and where the parties have had an opportunity to address themselves to the possible future consequences of such nonuse, and (b) situations where the unused authority either is a product of pure historical accident, or was awarded in the expectation that it would be used, so that the possible future consequences of nonuse have not been considered. Into the first category would fall, for example, the permissive Memphis-Miami nonstop authority awarded Southern on remand in the *Southern Airways Route Realignment Investigation*, Order 73-2-90, February 23, 1973, discussed with approval in *Southern Airways* v. *CAB*, 498 F. 2d 66 (C.A.D.C. 1974) (see footnote 21), where the Board awarded nonstop authority to Southern as well as Delta although it fully expected that only Delta would provide nonstop service. The authority we will award here to all qualified applicants also falls into this category, since we do not expect all awardees to provide service, even though we are confident service will be provided. We would also assign to the first category the improved authority awarded in route realignment proceedings on grounds of operating flexibility without any showing of specific service plans, since the carrier's freedom to use or not use the flexible authority granted is the whole point of the award. On the other hand, the "historical accident" subdivision of the second category would appear to cover those on-segment markets in grandfather certificates where unrestricted nonstop authority flowed from the Board's repeal of its early "nonstop" regulation (see Order 78-4-121, pp. 48-49, fn. 56). The second category also covers those situations under the Board's past limited-entry policy in which a carrier promised service in a market and was granted authority on the strength of that promise, but subsequently discontinued service (or never inaugurated it) either because the authority was permissive in form or because the carrier sought and was granted suspension authority. (We note that in a number of cases during the past decade where it has suspended an incumbent carrier's authority in favor of a replacement service by a smaller carrier, the Board has imposed conditions restricting the incumbent's right to reenter the market at will.)

We suggest this possible distinction between these two categories of situations because we believe that there is no reason whatever for us to concern ourselves with the possible effects of dormant authority in the first category, having already once had the issue before us. Even as regards the second category, however, we see no present justification for (and many drawbacks in) the adoption of a general policy of deleting dormant authority in the latter category of cases. We feel certain that in most instances the existence of dormant authority in these markets will prove to have no ill effects, and that its deletion would be contrary to the true interests of the communities themselves.

[32] The other alleged incidents of deterrence by dormant authority likewise fail to

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The plain fact is that there have been literally dozens, perhaps hundreds, of cases in which smaller carriers have unhesitatingly sought and been awarded authority to enter markets in which larger carriers held outstanding dormant authority. In many, perhaps most, of these cases they have not even bothered to ask the Board to delete or suspend this dormant authority; where they have asked, the Board has only in a minority of cases done so, yet the applicants have pressed on and entered the markets anyway. We are not aware of a single instance, nor has any been called to our attention, in which an applicant has withdrawn from a route case because the Board has refused to delete dormant authority, or in which a successful applicant has declined to inaugurate service on that ground. If dormant authority had the deterrent effect attributed to it by the civic objectors, surely some such incident would have occurred by now.

Moreover, the deterrence theory ignores the fact that a large portion (quite probably a majority) of the route applications filed with the Board are by smaller carriers seeking permission to enter markets in which larger carriers not only hold authority but are actively engaged in service. The former are obviously in no way deterred; when awarded authority they very frequently go on to achieve a substantial, often, dominant, market position. Being big is not always an advantage; very often a small or medium-sized market will be far more important to a smaller carrier than to a larger rival, and will receive more top management attention, more innovation, service more carefully tailored to local market needs, the support of beyond-market traffic flows to which the larger carrier lacks access. (The list could be extended considerably.) Of course, the smaller carrier does not always beat out the larger, but it does so often enough to refute utterly any theory that the latter have such weighty natural advantages that the smaller ones will be driven out of the market unless the Board extends its protecting arms around them.

We suspect that the persistent desire for exclusive authority—for that is what the request to delete dormant authority comes down to—is the atavistic residue of a regulatory system which continues to bear a tantalizing albeit anachronistic resemblance to the systems appropriate for regulating the typical "naturally monopolistic" public utility. As long as carriers continue to perceive the pieces of paper issued to them by the Board under this system, called "certificates," as having a market value separate and apart from the value of their airplanes, facilities, and of the going concern, a value based on their conveying some degree of exclusiveness, carriers are behaving rationally (within the context of an irrational system) when they seek such exclusive rights wherever possible, whether or not they really need them in order to operate. Carriers considering new service to a community have every incentive to seek the support of civic parties for a grant of exclusive authority; it does not follow, however, that if they do not get it they will not serve. We believe that under a more rational regulatory system, as the mythos of the exclusive franchise fades, the demand for such franchises will diminish, and it will be more widely realized that good air service not only does not require them but will indeed be best assured by their absence.

The point that we believe has been missed by the parties asking for the deletion of dormant authority, and the grant of mandatory authority or authority conditioned on use, is that such measures are quite likely to lead to sluggish and unresponsive service. As we have said, there is little evidence that dormant authority deters new carriers from entering, except in unusual circumstances; but there is plenty of evidence that the realistic threat of prompt new entry is the best guarantee of attentive, responsive service by an incumbent. This is the whole point of our developing policy of multiple permissive entry, and this is precisely the advantage the civic parties asking for deletion of dormant authority and denial of new permissive authority would throw away.

Moreover, we believe that the policies the civic parties would have us follow would be far more likely to lead to uneconomic behavior and destructive competition than would a policy of multiple permissive entry, without at the same time producing better service. If authority were made conditional on use, a carrier finding service in a market unprofitable at present, but not wishing to give up its authority for all time to come, would have an incentive to continue the unprofitable operations. It is unlikely that such service would be genuinely responsive to community needs, since the carrier's incentive would be to minimize its losses by providing no more than the bare minimum needed to avoid forfeiting its authority. In a small market, however, such grudging and unresponsive service might well destroy the ability of another carrier to serve the market profitably. In such a holding action, the "deep pockets" of a large carrier might well give it an advantage over a smaller one with fewer resources but quite possibly greater ability to serve the market well. Feeling forced to stay in the market, the large carrier might be impelled to behave in a predatory manner, seeking to drive the others from the market and thus automatically to deprive them of their authority.[32a] If a number of carriers attempted to hold on to authority in a market which currently could be served profitably by only one or a few of them, this could produce the very conditions of destructive competition which Congress feared in 1938. Yet if a carrier whose service is currently unprofitable knows it can reenter the market at a later date without going through an elaborate and costly certification proceeding, it will be less likely to maintain a money-losing service which may prevent another from operating profitably.[33] We remind the civic parties once again that there is no free lunch or free air service, and that service rendered at a loss, unless

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convince us. The incident cited by the Utah parties involving a commuter carrier is not a clear test because commuter carriers are limited by Part 298 to using aircraft of a certain maximum size; it may well be that in the particular market in question, commuter-type aircraft were not best suited to its needs and conditions. Moreover, commuter carriers have sometimes been treated (by scheduling publications and others) as rather second-class citizens in the airline community, a circumstance which may well have sometimes impaired their ability to compete for the patronage of those not acquainted with their true capabilities. Similarly, we are not convinced by the Texas parties' citation of Frontier's onetime difficulties in the Omaha-Midway market (not "recent," as Texas describes it, but in 1971, when Frontier's only Midway authority was from Lincoln and Omaha and its O'Hare authority was even more circumscribed). We are inclined to attribute Frontier's difficulties more to its extremely limited authority at Midway and the lack of service by other carriers which would have made Midway a more attractive destination and connecting point, rather than to United's competitive response to Frontier's service. As discussed in the text, the point is not that small carriers are always able to compete successfully with larger ones, but that they are able to do so sufficiently often to refute any general notion that the Board must hobble the larger carriers to allow the smaller ones to exist, or that a smaller one will be deterred from serving an otherwise potentially profitable market simply by the possibility that a larger carrier may take a notion to serve it also.

[32a] See Tr. 137.

[33] National argues generally (without attempting to connect its argument with the specific situation at Oakland) that multiple permissive authority will lead to predatory or destructive competition if carriers see a potential for preempting certain markets or if they think the authority they get now will be taken away from them—possibly by legislative action—if they do not use it. We responded to this argument in Order 78-7-116 (p. 4) where we observed that it simply depends upon too many unreasonable assumptions. We cannot predicate our policies on an assumption of future irrational legislative action.

directly subsidized, is rarely if ever either plentiful or convenient.[34]

In concluding that our proposed policy of awarding permissive authority to all qualified applicants is the one most likely to insure improved service to the traveling public at Oakland (or elsewhere), we do not ignore the constraints on carrier behavior imposed by temporary externalities outside regulatory control. Thus, at the rate traffic has been growing this year in response to lower fares, there may soon be a shortage of capacity which will make it difficult for carriers to inaugurate extensive new services until additional capacity can be ordered and brought on line. We have recently seen carriers reconfiguring their aircraft to add seats and rescheduling their system operations to add daily aircraft utilization, but the additional capacity that can be produced by these expedients, desirable as they are, is limited, and a temporary shortage of aircraft capacity is a real possibility. That such a shortage may temporarily limit the ability of carriers to add new services, however, in no way impairs the long-run validity of our conclusions about the merits of a policy of multiple permissive entry. Any alternative policy would have to deal with the same external constraints, and would not have the long-term merits of our proposed policy.

Braniff and National argue that multiple permissive entry will not solve Oakland's problems.[35] National takes this position because it expects we will apply the same policy at all Bay Area airports, and consequently expects the incentive to concentrate service at San Francisco to win out. On the other hand, if we are going to apply the policy at Oakland only, National calls on us to acknowledge that we are stacking the deck in Oakland's favor and that this regulatory action, not rational economic incentives, will be the driving force behind new Oakland service.

Since "rational economic incentives" have not had free play at the Bay Area airports in the past, we cannot predict with certainty how they may operate there in the future. We do not plan, for the time being, to throw open access to SFO, but we believe that our policy for Oakland is a necessary response to 30 years of regulation which helped produce concentration at SFO. Braniff's argument that we may have overestimated Oakland's traffic potential and carrier desires to tap it, and National's that carriers will not serve Oakland when they have access to SFO, assume that, given complete freedom, no one would have a rational incentive to serve Oakland. This ignores the fact that Oakland is the base of operations for two large supplemental carriers that may be applicants in this proceeding. If certificated, they will no longer be precluded from offering scheduled service there, which might well make economic sense for them even if they later acquired scheduled authority at SFO. Moreover, some new entrants to the Bay Area may well consider it easier to operate successfully at Oakland rather than try to take on the established San Francisco carriers.

There is simply no way of telling. The way to overcome the situation we have inherited as a result of restrictions imposed by the Board in the past is to open the Oakland markets to all who wish to serve them. There will be time enough at some later point, when and if we decide to open SFO as well, to ascertain whether, in those genuinely free-market circumstances, all the traffic tends to congregate there. If it does, it is at least conceivable that that is the best way of serving the public. Meanwhile, no carrier need serve Oakland under the policy we are adopting here if it feels that such service will be uneconomic. So while, if we were writing on a clean slate, the most economic pattern of service would be one that would arise if we opened both Oakland and San Francisco to all applicants, the fact that we have decided at this time to move only partially, in recognition of the fact that we are not writing on a clean slate, will not in itself produce any economic waste, and will, we are confident, produce services for which there is a genuine economic need, and which have been discouraged by our heretofore restrictive entry policies.

Finally, several comments, although not directed at Oakland specifically, discuss the systemwide implications of a multiple permissive entry policy. On the one hand, PSA apparently has no problem with the application of this policy at Oakland, but it argues that systemwide application would favor the stronger carriers; it urges that smaller carriers be given priority in route expansion opportunities. Airwest feels that the Board is now applying the multiple permissive entry policy only in small markets, which will exacerbate the problem of large-carrier dominance.[36]

On the other hand, Houston, United, and the Department of Justice argue that piecemeal application of a multiple permissive entry policy will cause irrational behavior. United reasons that carriers will not discontinue inefficient operations in markets at issue if they have nowhere else to use their equipment—"the necessary access by United and the other carriers to make the multiple and permissive policy effective does not exist." DOJ argues that, if the Board treats *Oakland* as an experiment, opposing carriers will dump excess capacity there to sabotage it.[37] Houston argues that carriers, apparently for uneconomic motives, will shift capacity from smaller markets to the ones that are "decontrolled." DOJ and United both argue that the Board's rationale in Order 78-4-121 for applying a multiple permissive entry policy at Oakland is equally relevant to the rest of the system.

We appreciate the importance of the questions raised by these parties about the comparative effects of introducing multiple permissive entry systemwide or in selected markets but this is not the forum for considering that general issue in our recent *Las Vegas-Dallas/Ft. Worth Nonstop Service Investigation* opinion, Order 78-7-116, we said:

* * * despite our general views on this subject, there may be some circumstances in

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[34] Braniff also argues that the answer to Oakland's problems is exclusive, mandatory authority "with a serious policing mechanism." Aside from the question of how we could practically "police" carrier schedules, such an approach obviously would discourage carriers from testing the traffic potential of markets which would be considered marginal under traditional forecasting methods.

[35] We note Delta's argument that the Board's analysis in Order 78-4-121 ignored the existence, through August 23, 1976, of SFO Helicopters, a certificated helicopter carrier which provided service between the Oakland and San Francisco airports. Delta asserts that this service provided convenient air transportation to SFO for the Oakland area at no cost. We do not understand Delta to make this point for the purpose of influencing our decision, but merely to explain why Bay Area carriers have so largely ignored Oakland. We recognized in Order 78-4-121 that the current concentration of service at SFO is economically rational, given the Board's past certification policies (see p. 12). Moreover, if we assume the validity of Delta's argument, it strengthens our findings that Oakland passengers are now suffering serious inconvenience since they no longer have helicopter service to connect them to SFO. In any event, we disagree with Delta's implication that because the service was free (through joint-fare arrangements) and frequent, it necessarily was convenient. Short as they were, those flights added a significant amount of time to the total trip (including the wait at Oakland for the helicopter departure and the second wait at SFO for the main flight departure), plus an increased risk of lost or delayed baggage.

[36] Airwest includes *Oakland* in this category, using the Oakland-Phoenix market as an example. On the whole, however, the large carriers provide most of the Oakland service, and this case represents a greater opportunity for small carriers to expand than for large carriers to increase their dominance. For our policy to be effective, we cannot exclude one market simply because a local service carrier happens to serve it.

[37] Its counsel also stated at the oral argument, that * * * carriers might also in good conscience and indeed in their best interests shift excess capacity to those markets like Oakland that have already been freed up prior to the systemwide implementation of an eased entry policy."

which the public interest may be better served by a more restrictive approach, requiring the Board to make authority 'mandatory' and to select only one or less than all of the qualified applicants. But as we see it now, if and when we do adopt a general policy of multiple entry, it should not be limited to a few routes or areas; whatever its final form, to be effective it should be extended to the core of the system and be broad enough (and carried out rapidly enough) to create substantial new competitive opportunities for all segments of the industry, including small trunklines and local service carriers.

The general arguments on the subject should have been, and in fact were, made in the context of Docket 28848, where we are considering whether to adopt multiple permissive entry as a general policy. *Oakland*, although consistent with the Board's evolving policies, also involves special circumstances (as we pointed out in Order 78-4-121), and we believe that a multiple permissive entry policy is justified to remedy Oakland's general lack-of-service problems, regardless of whether we decide to apply the policy more broadly. Just as there may be circumstances requiring a more traditional approach even if we give the policy broad applicability, there are and will be situations calling for application of the policy if we decide not to apply it on a large scale. *Oakland* is one of these. We do not believe that the limited steps we have taken in this direction (i.e., *Oakland* and *Midway*, Order 78-7-40) will cause perverse economic behavior sufficient to cause us prematurely to decide on what scale to certificate carriers on a multiple permissive basis.

There are at least three reasons for doubting the likelihood that this experiment will be distorted by the kind of perverse behavior predicted by DOJ and Houston. First of all, capacity in the industry is already tight and promises to become tighter (see above p. 44), both because of the rate at which traffic has been growing this year, and because the carriers ordered relatively few new aircraft during the early 1970's, when a much lower level of traffic growth prevailed. In these circumstances, we believe that the carriers will have better things to do with their available capacity than to throw it deliberately into uneconomic operations.

Second, it would be irrational of them to use that capacity for this kind of purpose at Oakland, where the value of the certificates is being driven to zero, and where as a result there is no likelihood of being able in the future to recover gains through any monopoly that they might hope to achieve by predatory behavior today.

Finally, they cannot hope to sabotage the evolving policy of multiple permissive entry by engaging in economically irrational or predatory behavior at Oakland. We are well aware of the systemic factors which render the results of introducing changed concepts of regulation in isolated markets an unreliable guide to the prospective results of introducing these same concepts systemwide or on a broad scale. In this respect, DOJ has misinterpreted our use of the term "experimental" in Order 78-4-121. We are interested in seeing what effect a policy of multiple permissive entry adopted at the outset of a case will have on the time, complexity, and cost of route proceedings, and we are also interested in confirming our belief that this policy will ameliorate Oakland's longstanding service problems. But we are not relying on the results of the *Oakland* experiment to validate or invalidate the general policy of multiple permissive entry, because of the very factors DOJ cites; and, indeed, we do not expect to await the results of the *Oakland* experiment before deciding whether or not to go forward with the general policy of multiple permissive entry on a broad scale.

As we made clear in Order 78-7-116, quoted above, if we adopt the general policy we intend to apply it in many markets and rapidly enough to allow substantial new competitive opportunities for all segments of the industry. Thus no carrier can hope to derail the developing policy of mulitple permissive entry by engaging in irrationally excessive scheduling at Oakland; and if and when the Board decides to apply the policy broadly, any such strategic behavior will become exceedingly expensive, while reducing the possible future gains to zero over a wider and wider area. Under these circumstances we cannot believe that carrier managements would willfully throw large sums of money down the drain, and simultaneously forego profitable employment of their available aircraft capacity elsewhere, merely in an attempt to sabotage our policy an attempt that which would obviously be doomed to failure in any event.

Environment and Energy

For similar reasons, we are not required to look at the environmental and energy significance of a widespread application of the policy in the context of this case; rather, we will do so in the proceeding designed to focus on that issue.

As to *Oakland*, our Bureau of Pricing and Domestic Aviation has issued a draft environmental and energy impact statement. Its preliminary conclusion here is that, among the numerous alternative courses of action discussed in the EIS, the proposed action is the best on environmental grounds, and will on balance be environmentally beneficial.

While the increased activity at Oakland will have a negative impact on its environment, that impact should be more than offset by the environmental benefits to the Bay Area as a whole and by the public policy considerations favoring multiple awards. When these two benefits are combined, they far outweigh the adverse impact on Oakland Airport's environment.

Although there are some alternative actions that might lessen the effect of our action on Oakland's environment, each would reduce the positive benefits accruing to the rest of the Bay Area to an extent that would more than offset its advantages. We therefore believe that unrestricted multiple authority is the most desirable alternative.

The award of multiple permissive authority in the markets at issue should have several favorable impacts on energy efficiency and conservation. By encouraging a more desirable distribution of Bay Area air traffic, the awards will save gasoline that would otherwise have been consumed by passengers driving out of their way to take advantage of the more frequent schedules at San Francisco International. The greater utilization of Oakland will also save aviation fuel by reducing delay times at the more congested airport, SFO.

Multiple permissive authority will also encourage increased competition, with the probable result being an increased level of operations in the Bay Area. We have estimated that these increased operations will result in the use of between 1 and 24 million additional gallons of aviation fuel, the exact amount depending on how much the level of operations actually increases. However, this increased fuel usage will be offset, at least in part, by two favorable effects of the increased competition.

Increased competition will promote energy efficiency by providing an incentive to carriers to increase load factors on Bay Area flights. As carriers cut prices in their effort to increase their market shares, they will be forced to operate at higher load factors to make their operations profitable. We have estimated that increased competition would raise load factors to 65 percent on an annual basis, which is far more energy-efficient than present operations.

A second favorable energy impact of increased competition is that lower fares will divert some passengers from other modes of transportation, primarily the passenger car. Thus, the increased consumption of aviation fuel caused by the higher level of operations will be at least partially offset by the fuel savings in other modes of

transportation. Since planes operating at 65 percent load factors are relatively fuel-efficient, this diversion will also have a favorable effect on energy efficiency.

Finally, while this analysis, and consequently our decision, are subject to change in the final statement, proceeding with this case in the meantime does not commit us to multiple permissive licensing at Oakland if we should become convinced that the environmental consequences of such a policy warrant a modification of it.

SCOPING

Turning to the quetion of the city-pair authority at issue, we will grant Continental's and Oakland's petitions for reconsideration asking us to include the Oakland-Los Angeles market in this case. While it receives extensive low-fare service from PSA, as we pointed out in Order 78-4-121, it currently is a monopoly market (in terms of service, not authority) and undoubtedly the traveling public would benefit from competition. We will not, however, include the Oakland-New York/Washington/Baltimore markets as TIA requests. The fact that these are at issue in another case does not necessarily preclude us from considering them here, if positive reasons for doing so are put forward, but we are not persuaded that there are such reasons in this case;[38] in the interest of expedition, therefore, we will exclude these markets. However, this does not foreclose their consideration in the future. We also will not grant Airwest's request to sever the Oakland-Portland/Seattle markets from this case. It was reasonable for other potential applicants to assume that these markets would be included in Oakland's case, and it would be unfair to exclude applicants because they did not seek instead to enter the Subpart M case. Therefore, the question is whether we include the markets in *Oakland* or give everyone an opportunity to enter the Subpart M case; we think the former will be faster and more efficient. We will modify the issues slightly, however, to allow Oakland applicants to seek coterminal status for Portland and Seattle in their certificates (with local traffic rights between the two points). We often do this to afford carriers more operational flexibility.[39]

Finally, Oakland seeks exemptions for all applicants pending final decision in this case.[40] In view of the substantial reduction in evidentiary requirements and the speed with which we are conducting this case, we do not view certification as an undue burden. Therefore, we will deny this request.[41]

Accordingly:

1. We make final the policy proposed in Order 78-4-121 to award permissive authority to all qualified applicants in each of the Oakland markets in issue in which a need for additional authority is found in this proceeding;

2. We amend the issues in this proceeding to include whether the public convenience and necessity require the grant of additional certificated route authority between Oakland and Los Angeles, Calif., and to permit applicants to seek coterminal status for Portland and Seattle;

3. To the extent indicated in paragraph 2, we grant the petitions for reconsideration of Continental Air Lines and the Oakland Chamber of Commerce and Port of Oakland; otherwise we deny these petitions;

4. We deny the petitions for reconsideration of Delta Air Lines, Trans International Airlines, and Hughes Airwest;

5. We grant the petitions for leave to intervene of the Department of Transportation, the City and County of San Francisco, and the City of Kansas City and Chamber of Commerce of Greater Kansas City, and we make them parties to this proceeding;

6. We deny the exemption request of the Oakland Chamber of Commerce and Port of Oakland;

7. We grant the motions to consolidate the application of Ozark Airlines in Docket 33127 and the amended applications in Dockets 30739 and 30981 of Allegheny Airlines and Northwest Airlines, respectively, and we consolidate these appliations in this proceeding;

8. We amend Attachment H to Order 78-4-121 in accordance with our discussion in fn. 30, p. 37 of this order; and

9. We grant the motion of DHL Airways for leave to file it comments late.

We shall publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board:[42]

PHYLLIS T. KAYLOR,
Secretary.

O'MELIA, MEMBER, INTERIM STATEMENT[43]

As the majority opinion clearly states, the Board is adopting in this order a change in policy that is fundamental. The Board is deciding that one of the major Board functions under the existing statue as a Federal regulator—that of selecting a carrier or carriers to perform transportation that the public convenience and necessity may require—is now to be turned over to the random workings of the marketplace. We are assured that we need not worry about this relegation of our statutory responsibilities in the sixteen markets in issue because "the market" will determine carrier selection, will do so continuously, and will force an incumbent carrier to maintain an optimum or near-optimum mix of price and service. I can't get over the feeling that we are imparting near-human attributes of insight, rationality, and purposefulness to the market, and I can't accept the proposition that such an impersonal agent will do the job with the same dedication to the public interest, with the same accountability, and with the same respect for due process that we as appointed officials have been called upon to demonstrate for nearly 40 years.

I am also concerned at how we are going about taking this fundamental step. We are taking this action without a full Board on hand which might have a greater balance of regulatory philosophy, and without the sense of unanimity that would have endorsed this decision under other circumstances with at least a statutory quorum. However, it may serve no purpose to delay this decision. The careful selection process that goes into the appointment mechanism would probably preclude the appearance of other discordant or deviant voices in our collegial quintet (presently, of course, sadly depleted to a trio). Another qualm that I must express is that the actual decision to delegate the function of carrier selection appears almost ministerial or perfunctory. After we met in early July to hold oral argument in this case, the Board did not need to deliberate on its decision nor to instruct its staff on the opinion that it should write. The staff on its own prepared the order to adopt the multiple permissive award policy, and the Board gave its blessing to it at its "Sunshine" meeting of September 7. This makes it all too evident that the policy decision to use multiple permissive awards was made elsewhere and at an earlier time.

On May 30, 1978 in my concerning statement to the instituting order in this case, I

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[38] We are not convinced that the lack of answers to TIA's petition indicates a lack of opposition to the substance of it. TIA's certificate of service states only that it served *Oakland* parties with the petition, not parties to the *Transcontinental Low-Fare Route Proceeding*, where these markets are at issue.

[39] See, *e. g., Pacific Northwest-Southwest Service Investigation*, 46 CAB 652 (1967).

[40] Oakland also wants the Board to make tentative profitability findings for the Oakland-Atlanta/Albuquerque/Kansas City markets, as we did in Order 78-4-121 for the other markets in issue. In attempting to demonstrate profitability potential, Oakland cites the high volume of connecting traffic between the Bay Area and Atlanta, and for Albuquerque and Kansas City it uses an elasticity coefficient of −2.5, as well as the costs of other carriers. It may be that these assumptions are reasonable, but, as we said in Order 78-4-121, there is enough room for doubt to require exploration of these matters at the economic hearing.

[41] Delta filed a petition for reconsideration, arguing that we cannot "split" the need and carrier selection issues, that we cannot make environmental and energy determinations without reviewing competitive schedules, and that we cannot base our diversion policy here on another order which is not final yet, referring to Order 78-4-69. Delta's first point is the same as its legal argument, which we have rejected above. It is clear from the draft environmental impact statement why we reject the second point. As to the third point, our discussion of diversion evidence in Order 78-4-121 may have incorporated the analysis in Order 78-4-69, but it did not rely on that order as the basis for our policy regarding diversion exhibits here. In any event, Order 78-4-69 has now been made final by Order 78-8-97.

[42] Chairman Kahn and Member Bailey concurred. Member O'Melia dissented and filed the attched interim statement.

reserved my position insofar as the proposed policy of multiple permissive awards is concerned, and expressed the view that, after reviewing the comments submitted in this Phase I of *Oakland*, I might want to press for a different or for a modified solution for this case. The briefs and exhibits submitted by the numerous interested parties, and the oral argument held on this issue, left me far from satisfied that it is in the public interest for the Board to determine now to adopt a blanket ruling awarding multiple permissive authority in the sixteen Oakland markets in issue without first examining the needs and characteristics of those markets in a public record developed in evidentiary hearings. I have proposed to my colleagues a modified approach, which, in my opinion, would avoid the controversy and the dangers of this blanket determination, a determination which already in at least one other case had demonstrated the hazards of the multiple permissive venture. However, that modification—which was simply to defer the blanket ruling on multiple permissive awards and instead to make a decision on whether to grant such awards or to select a carrier or carriers on the basis of the evidentiary examination of each market—was not acceptable to my colleagues. For the reasons set forth in the asterisked footnote to this statement, I am agreeing to have the Board's decision issue now, with my dissent to follow at a later date.

However, I would like at this time to outline briefly the issues in this case that compel me to withhold my concurrence. First of all, I believe that we are riding rough-shod over *legal questions* that have been raised about the statutory validity, the due process aspects, and the lawfulness of a blanket determination granting multiple permissive awards without regard to specific market needs and carrier proposals. Second, I do not believe that the multiple permissive award proposition adopted without an evidentiary proceeding relating such awards to specific markets is a sound *regulatory policy*. Third, I have great uneasiness with how we are dealing with *environmental and energy conservation issues* in the Oakland proceeding. As I indicated, I plan to develop these points briefly in my dissent which is to follow, and would here only indicate why these trouble me.

The legal issue. The majority opinion does an excellent job of advocacy in examining the legislative history and case precedents bearing on the question of whether the Board is constrained to select a carrier or carriers for particular route authority on the basis of public convenience and necessity or whether it can decide to get out of that business and give awards to all who want them with only a perfunctory genuflection to public convenience and necessity. The attorneys and analysts who put this order together to support the multiple permissive award thesis are to be commended for the extensive research, the professional skill, and the scholarly approach that went into this exposition. However, I am left with the sense that all that this order has told me is that, if the Board wants to go in this direction, it can probably get away with it.

I am not interested in knowing only whether we can successful withstand judicial challenge. I would prefer to have the assurance of knowing that our reading of the Act represents the less-strained interpretation, that it is the more widely-accepted understanding of the Act, and that the adopted interpretation is not one that is greatly in need of being defended. In addition, I believe it is desirable for the Board's record that we set forth with a greater degree of balance the arguments questioning the validity and lawfulness of multiple permissive awards, just as here the Board has given prominence to the arguments supporting the lawfulness of multiple permissive awards. I think it is desirable that we set forth both sides of the issue. My dissent will attempt to a more modest extent to fill the need for that counterpoint of ideas.

The policy issue. The issue of multiple permissive awards as a regulatory policy is perhaps even more to be questioned and even more in need of discussion. Multiple permissive, is, of course, the antithesis of carrier selection. However, the majority opinion does not say that there will be no carrier selection. Instead it says that we will turn over this statutory assignment to "the market" which is far more able than the Board to pick the right carrier. In Order 78-4-121, instituting this proceeding, it was pointed out that "the Board's judgment, like all human judgments, is fallible" whereas the marketplace is a more "finely tuned mechanism" and "operates on more complete and up-to-date facts." (see page 35). I find this deference to market forces somewhat frightening. It is we who are responsible by statute for carrier selection, not some metaphysical potter tirelessly working to mold our transportation vessels. What if he turns out a real clinker? Who is responsible? The free market doesn't work like an instructed and fully subservient genie. The factors in the market are myriad and the results not all that predictable. It is very unlikely that the market—if it had cognitive intelligence—would share our views, or indeed the views of Congress, as to what constitutes the public interest.

The point to all this is that we cannot abdicate our statutory responsibilities. Congress and the President have placed in our hands the task of regulating this industry, and we have no authority to delegate that assignment to some marketplace genie. I don't think that that genie exists. If he did, and Congress had known about it, it would not have been necessary to create this Board. If we say that we are turning the carrier selection duty over to the marketplace, we are really deciding that determinations of whether the public convenience and necessity require the provision of particular air transportation are no longer to be made. I don't believe we have the right under the present Act to decide that, and I hope to touch upon this policy issue in my dissent.

The environmental and energy issue. Finally, I am concerned with the Board's treatment in this case of environmental and energy concerns. The Board has indicated in a number of cases that the exact results of multiple permissive awards are unpredictable. The Board has suggested that, with the marketplace regulating the system, the services will not be excessive, or at least not for long, but neither will they be inadequate. But the spectrum between those two extremes is broad. How can we know that we are acting consistently with our statutory responsibilities under the environmental directive (NEPA) or the energy conservation mandate (EPCA)? I recognize that the majority view states that we are not committed to multiple permissive awards if we should become convinced that the environmental consequences of that policy warrant a modification. But in light of the other pronouncements in this order, I wonder whether we have not already determined this issue. I hope that the marketplace genie that is to handle our carrier selections will also keep in mind environmental and energy considerations. In any case, in my dissent, I hope to offer some observations on this issue as well.

I concurred in April of this year with the institution of the *Oakland* case because I felt that it was manifestly true that Oakland was clearly in need of improved air service. For the same reason, I now participate in the decision that will permit this proceeding to go forward. However, it is my motive in doing this to be responsive to Oakland's air service needs, rather than to test out any proposition that will move us in the direction of nonregulation.

RICHARD J. O'MELIA.

[FR Doc. 78-27035 Filed 9-25-78; 8:45 am]

[6320-01]

[Docket 32743]

OMAHA-DALLAS/FORT WORTH SUBPART N PROCEEDING

Rescheduled Hearing

Notice is hereby given that the hearing in the above matter, now assigned to be held on October 10, 1978 (43 FR 41253, September 15, 1978), is rescheduled for October 12, 1978, at 10 a.m. (local time), in Room 1003, Hearing Room C, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C., before the undersigned.

Dated at Washington, D.C., September 20, 1978.

RICHARD M. HARTSOCK,
Administrative Law Judge.

[FR Doc. 78-27042 Filed 9-25-78; 8:45 am]

[6320-01]

[Docket 27793]

PAN AMERICAN WORLD AIRWAYS v. SABENA

Reassignment of Proceeding

This proceeding has been reassigned from Administrative Law Judge Richard V. Backley to Administrative Law Judge Rudolf Sobernheim. Future communications should be addressed to Judge Sovernheim.

Dated at Washington, D.C., September 21, 1978.

NAHUM LITT,
Chief Administrative Law Judge.

[FR Doc. 78-27043 Filed 9-25-78; 8:45 am]

[6320-01]

[Docket No. 28475]

ST. LOUIS-KANSAS CITY SUBPART M PROCEEDING

Reassignment of Proceeding

This proceeding has been reassigned from Administrative Law Judge Richard V. Backley to Administrative Law Judge Richard M. Hartsock. Future communications should be addressed to Judge Hartsock.

Dated at Washington, D.C., September 19, 1978.

NAHUM LITT,
Chief Administrative Law Judge.

[FR Doc. 78-26921 Filed 9-25-78; 8:45 am]

[6320-01]

[Order 78-9-59; Docket 33410]

UNITED AIR LINES, IND.

Amendment of Certificate of Public Convenience and Necessity for Route 1; Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 13th day of September 1978.

By order 78-9-56, issued concurrently with this order, the Board has proposed to realine the domestic route system of Northwest Airlines in a manner which would, among other things, give Northwest unrestricted authority in eight minor markets[1] where United also holds restricted authority.[2] As discussed in orders 78-4-109, 77-11-74, and 76-5-101, it is our view that such small markets do not, as a practical matter, present competitive considerations of significant magnitude, and accordingly, we have proposed as a matter of policy to grant unresricted authority to all carriers authorized to serve such minor markets. The removal of operating restrictions on United as well as the other carriers certificated to serve these minor markets will give these carriers greater flexibility to establish more logical aircraft routings, and may enable the carriers to offer new or additional service in these small markets, thereby benefiting the traveling public without any significant adverse impact on other carriers.

Upon consideration of the above matters, and consistent with our tentative findings and conclusions set forth in orders 78-4-109, 77-11-74, and 76-5-101, we tentatively find and conclude that the elimination of restrictions on United's operations in the eight markets listed in appendix A[2a] is required by the public convenience and necessity, and is consistent with the Board's policy of removing restrictions which serve no useful purpose and which are otherwise wasetful and undesirable.

Interested persons will be given 30 days following the date of service of this order to show cause why the tentative findings and conclusions set forth here should not be made final, with answers due within 10 days thereafter. 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 complete with the opportunity for oral cross-examination 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.[3]

Accordingly: 1. We direct all interested persons to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending United's certificate for Route 1 so as to remove operating restrictions in the markets listed in appendix A;

2. Any interested persons having objection to the issuance of an order making final the proposed findings, conclusions, and certificate amendments and modifications set forth here shall, no later than October 19, 1978, file with the Board and serve upon all persons listed in appendix I of order 78-9-56, a statement of objections together with a summary of testimony, statistical data, and such evidence as is expected to be relied upon to support the stated objections; answers to objections shall be filed no later than October 30, 1978;

3. If timely and properly supported objections are filed, full consideration will be accorded the matters or issues raised by the objections before further action is taken by the Board;[4]

4. In the event no objections are filed to any part of this order, we will consider all further procedural steps relating to such part or parts to have been waived, and the case will be submitted to the Board for final action and

5. We shall serve a copy of this order upon all persons listed in appendix I of order 78-9-56.

We shall publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[5]
Secretary.

APPENDIX A.—*Minor Markets Where United Will Receive Unrestricted Authority*

Market	Year ending Sept. 30, 1975, traffic[1]	Present authority
Spokane to:		
Atlanta	5,370	2-stop via Cleveland and Denver.
Baltimore	2,040	1-stop via Denver.
Boston	4,360	Do.
Fort Lauderdale	750	2-stop via Cleveland and Denver.
Miami	2,410	Do.
Philadelphia	5,700	1-stop via Denver.
Tampa	1,650	2-stop via Cleveland and Denver.
Portland to Tampa	5,360	1-stop via Cleveland.

[1]True O. & D. plus interline connecting passengers.

[FR Doc. 78-26926 Filed 9-25-78; 8:45 am]

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[1]A minor market is one with fewer than 20 true O. & D. plus interline connecting passengers a day, or 7,300 per year.

[2]The minor markets where both United and Northwest currently hold restricted authority are set forth in appendix A to this order.

[2a]Appendix A filed as part of the original document.

[3]We further conclude that United is a citizen of the United States within the meaning of the Act, and is fit, willing, and able to perform properly the air transportation proposed here and to conform to the provisions of the Act and the Board's rules, regulations, and requirements.

[4]All motions and/or petitions for reconsideration shall be filed within the period allowed for filing objections and no further motions, requests, or petitions for reconsideration of this order will be entertained.

[5]All members concurred.

[6335-01]

COMMISSION ON CIVIL RIGHTS

MARYLAND ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Maryland Advisory Committee (SAC) of the Commission will convene at 10 a.m. and will end at 4 p.m. on October 21, 1978, in the International Hotel at Baltimore-Washington International Airport, Baltimore, Md.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street NW., Washington, D.C. 20037.

The purpose of this meeting is to discuss plans for fiscal year 1979 project.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., September 20, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-27002 Filed 9-25-78; 8:45 am]

[6335-01]

MISSISSIPPI ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Mississippi Advisory Committee (SAC) of the Commission will convene at 10:30 a.m. and will end at 1:30 p.m. on October 19, 1978, in the Holiday Inn, Downtown, 200 E Amite Street, Jackson, Miss., Pecan Room (on Mezzanine).

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Southern Atlantic Regional Office of the Commission, 75 Piedmont Avenue NE., Atlanta, Ga. 30303.

This is to be a discussion of current civil rights problem areas in Mississippi: Upsurgence of Klan activities, police/community relations, political representation and redistricting, Federal program effectiveness in reaching rural poor.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., September 20, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-27003 Filed 9-25-78; 8:45 am]

[6325-01]

CIVIL SERVICE COMMISSION

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

Charter Renewal

Pursuant to section 14(b) of the Federal Advisory Committee Act, notice is hereby given of the renewal of the charter of the Federal Prevailing Rate Advisory Committee. The Committee was established by the Prevailing Rate Systems Act (Pub. L. 92-392) to study the prevailing rate system and from time to time advise the Civil Service Commission thereon.

The Civil Service Commission certifies that the renewal of the Advisory Committee is in the public interest. A new charter for the Committee has been approved and filed as required.

DONALD J. BIGLIN,
Advisory Committee Management Officer.

[FR Doc. 78-26969 Filed 9-25-78; 8:45 am]

[6325-01]

FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

Termination of Health Alliance Health Plan

AGENCY: Civil Service Commission.

ACTION: Notice of termination of Health Alliance Health Plan under the Federal Employees Health Benefits Program.

EFFECTIVE DATE: September 23, 1978.

SUMMARY: Pursuant to the authority contained in section 8902 of title 5, chapter 89 of the United States Code and § 890.301(k) of 5 CFR Part 890, the U.S. Civil Service Commission hereby announces that the participation of the Health Alliance Health Plan, Santa Clara, Calif., in the Federal Employees Health Benefits Program will be terminated effective September 23, 1978.

Each Federal employee or annuitant enrolled in the Health Alliance Health Plan must change to another health plan offered in their area under the Federal Employees Health Benefits Program immediately. The effective date of the change will be the first day of the first pay period beginning on or after September 23, 1978. Federal employees and annuitants must submit a completed form 2809 to their personnel offices to effect this change in health plans.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gettys, Comprehensive Plans Division, Bureau of Retirement, Insurance and Occupational Health, U.S. Civil Service Commission, Washington, D.C. 20415.

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

[FR Doc. 78-27166 Filed 9-25-78; 8:45 am]

[6325-01]

NOTICE TO PAYROLL OFFICES HAVING ENROLLEES IN HEALTH ALLIANCE HEALTH PLAN

Termination of Health Alliance Health Plan

SUBJECT: Termination of Health Alliance Health Plan under the Federal Employees Health Benefits Program.

The participation of the Health Alliance Health Plan in the Federal Employees Health Benefits Program will be terminated effective September 23, 1978. Employees who are enrolled in this plan must immediately change to another health plan offered in their area. A SF 2809 is required for each enrollee in codes CA 1 or CA 2 showing the termination of enrollment in Health Alliance Health Plan and enrollment in another health plan. The effective date of the change will be the first day of the first pay period beginning on or after September 23, 1978.

THOMAS A. TINSLEY,
Director, Bureau of Retirement, Insurance and Occupational Health.

[FR Doc. 78-27204 Filed 9-25-78; 8:45 am]

[3510-25]

DEPARTMENT OF COMMERCE

Industry and Trade Administration

TELECOMMUNICATIONS EQUIPMENT TECHNICAL ADVISORY COMMITTEE

Partially Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a meeting of Telecommunications Equipment Technical Advisory Committee will be held on Tuesday, October 17, 1978, at 10 a.m. in room 3817, Main Commerce Building, 14th and Constitution Avenue, NW, Washington, D.C.

The Telecommunications Equipment Technical Advisory Committee was initially established on April 5, 1973. On March 12, 1975, March 16, 1977, and August 28, 1978, the Assistant Secretary for Administration approved the recharter and extension of the Committee pursuant to section 5(c)(1) of the Export Adminstration Act of 1969, as amended, 50 U.S.C. App. Sec.

2404(c)(1) and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to telecommunications equipment, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls.

The Committee meeting agenda has four parts:

GENERAL SESSION

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.
3. Nomination and election of a new Chairman.

EXECUTIVE SESSION

4. Discussion of matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statement may be submitted at any time before or after the meeting.

With respect to agenda item (4), the Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 6, 1978, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government In The Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by Executive Order 11652 to be kept secret in the interest of national defense or foreign policy. All materials to be reviewed and discussed by the Committee during the Executive Session of the meeting have been properly classified under the Executive Order. All Committee members have appropriate security clearances.

Copies of the minutes of the open portion of the meeting will be available upon written request addressed to the Freedom of Information Officer, Industry and Trade Administration, room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Industry and Trade Administration, room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: 202-377-4196.

The complete Notice of Determination to close meetings or portions thereof of the series of meetings of the Telecommunications Equipment Technical Advisory Committee and of any subcommittees thereof is hereby published.

Dated: September 21, 1978.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

U.S. DEPARTMENT OF COMMERCE

OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

TELECOMMUNICATIONS EQUIPMENT TECHNICAL ADVISORY COMMITTEE

DETERMINATION

In response to written requests of representatives of a substantial segment of the telecommunications equipment industry, the Telecommunications Equipment Technical Advisory Committee was established by the Secretary of Commerce pursuant to section 5(c)(1) of the Export Administration Act of 1969, 50 U.S.C. App. 2404(c)(1) (1976), to advise the Department of Commerce with respect to questions involving (A) technical matters, (B) worldwide availability, and actual utilization of production technology, (C) licensing procedures which may affect the level of export controls applicable to telecommunications equipment, including technical data or other information related thereto, and (D) exports of the aformentioned commodities and technical data subject to multilateral controls in which the United States participates, including proposed revisions of any such multilateral controls.

The Committee, which currently has seven members representing industry and five members representing government agencies, will terminate no later than August 29, 1980, unless extended by the Secretary of Commerce or her designee. All members of the Committee have the appropriate security clearances.

The Committee's activities are conducted pursuant to 50 U.S.C. App. 2404(c)(1); the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. (1976); and the Office of Management and Budget Circular A-63 (Revised), Advisory Committee Management, effective May 1, 1974. Section 10 of the Federal Advisory Committee Act as amended by section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409, provides that advisory committee meetings or portions thereof may be exempt from the open meeting and public participation requirements of the Federal Advisory Committee Act if the President, or the head of the agency to which the advisory committee reports, determines that such meetings or portions thereof may be closed to the public in accordance with 5 U.S.C. 552b(c).

5 U.S.C. 552b(c)(1) provides that agency meetings or portions thereof may be closed to the public where they are likely to disclose matters that are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy and are in fact properly classified pursuant to such Executive Order.

Eight Notices of Determination authorizing the closing of meetings, or portions thereof, of the Telecommunications Equipment Technical Advisory Committee and its formal subcommittees, dealing with security classified matters, have been approved in the past.

In order to provide advice to the Department under the terms of its charter, the Committee and formal subcommittees thereof will continue to hold a series of meetings dealing with the matters set forth in the first paragraph of this Determination. These meetings will include discussions of the COCOM control list as it relates to the commodities and technical data under its purview, and with the foreign availability of these commodities and technical data. In addition, the Committee and its formal subcommittees will be preparing recommendations for the Department's consideration relating to the U.S. Government's negotiating position on COCOM-related matters. Much of the information relating to the COCOM control list, as well as proposed changes, is now or will be security classified for national defense or foreign policy reasons, pursuant to Executive Order No. 11652, 3 C.F.R. Part 339 (1974) or Executive Order No 12065, 43 FR 28949 (1978). In order for the Committee and its formal subcommittees to provide required advice to the U.S. Government, it will be necessary to provide the Committee and its formal subcommittees with such classified material. Therefore, the series of meetings or portions of meetings of the committee and of subcommittees thereof that will involve discussions of matters specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive Order, must be closed to the public. The remaining series of meetings or portions thereof will be open to the public.

Accordingly, I hereby determine, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409, that the series of meetings or portions of meetings of the Committee and of any subcommittees thereof, dealing with the aforementioned classified materials shall be exempt, for the period from the date of the signing of this Determination, to August 29, 1980, from the provisions of section 10(a)(1) and (a)(3), relating to open meetings and public participation therein, because the Committee and subcommittee discussions will be concerned with matters listed in 5 U.S.C. 552b(c)(1). The remaining series of meetings or portions thereof will be open to the public.

Dated: September 6, 1978.

ELSA A. PORTER,
Assistant Secretary for Administration.

Dated: September 5, 1978.

DANIEL GARBERN,
Acting Assistant General Counsel.

[FR Doc. 27018 Filed 9-25-78; 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 THE ARMY, Office of Judge Advocate General, Patent Division, Room 2C-455, Pentagon, Washington, D.C. 20314

Patent 4 040 896: Chemical Polish for BaF2 and CaF2; filed November 15, 1976; patented August 9, 1977; not available NTIS.

U.S. DEPARTMENT OF AGRICULTURE, Research Agreements and Patent Branch, General Services Administration, Agricultural Research Service, Hyattsville, Md. 20782

Patent application 737 979: Fiber Dispersing and Feeding Method and Apparatus for D. E. Spinning; filed November 2, 1976.

Patent application 801 273: Quantitative Apparatus for Sampling Arthropods Associates with Field Crops; filed May 27, 1977.

Patent application 806 571: Lint-Cotton Reclaiming Apparatus for Cotton Gins; filed June 14, 1977.

Patent application 837 488: Electrostatic Precipitator Apparatus Using Fluid Collection Electrodes; filed September 28, 1977.

Patent application 844 336 Differential Action Extractor Comb; filed October 21, 1977.

Patent application 844 418: Furrow Opener and Apparatus for No-Tillage Transplanters and Planters; filed October 21, 1977.

Patent application 866 077: Lint Cleaning Apparatus for Automatic Control of Cotton Quality; filed December 30, 1977.

Patent application 893 366: Method of Removing Pigment from Annatto Seed; filed April 4, 1978.

Patent application 893 367: Cotton Dust Analyzer; filed April 4, 1978.

Patent application 907 473: Wax Esters of Vegetable Oil Fatty Acids Useful as Lubricants; filed May 19, 1978.

Patent application 907 474: Method of Applying Herbicide; filed May 19, 1978.

Patent 4 083 783: Removal of Heavy Metal Ions from Aqueous Solutions with Insoluble Crosslinked-Starch Xanthates; filed June 3, 1977, patented April 11, 1978. Not available NTIS.

Patent 4 084 016: Preparation of Legume Chips; filed December 28, 1976; patented April 11, 1978. 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 879 492: A Cobalt Catalyzed Steroid Synthesis; filed February 21, 1978.

U.S. DEPARTMENT OF THE INTERIOR, Branch of Patents, 18th and C Streets NW., Washington, D.C. 20240

Patent application 900 830: Molybdenite Flotation; filed April 28, 1978.

Patent application 901 041: Multichannel Infrared Pyrometer; filed April 28, 1978.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, Assistant General Counsel for Patent Matters, NASA Code GP-2, Washington, D.C. 20546

Patent application 896 955: Liquid Metal Slip Ring; filed April 17, 1978.

Patent application 900 832: Charge Injection Method and Apparatus of Producing Large Area Electrets; filed April 28, 1978.

Patent application 907 436: Coupling Device for Moving Vehicles; filed May 19, 1978.

Patent application 910 708: Air Speed and Altitude Probe; filed May 30, 1978.

Patent application 910 794: Small Air Breathing Launch Vehicle; filed May 30, 1978.

Patent 4 083 181: Gas Turbine Engine with Recirculating Bleed; filed June 14, 1976; patented April 11, 1978. Not available NTIS.

Patent 4 083 520: Tetherline System for Orbiting Satellites; filed November 8, 1976; patented April 11, 1978. Not available NTIS.

Patent 4 084 825: Counter Pumping Debris Excluder and Separator; filed March 31, 1976; patented April 18, 1978. Not available NTIS.

[FR Doc. 78-26985 Filed 9-25-78; 8:45 am]

[3510-04]

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 patent application number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator, National Technical Information Service.

U.S. DEPARTMENT OF THE ARMY, Office of Judge Advocate General, Patent Division, Room 2C-455, Pentagon, Washington, D.C. 20314.

Patent 4,036,142: Obscuration Fuze and Sensor; filed Jan. 18, 1967; patented July 19, 1976; not available NTIS.

Patent 4,036,144: Arming System; filed Jan. 29, 1959; patented July 19, 1977; not available NTIS.

Patent 4,037,782: Engine Condition Calculating Device; filed July 12, 1976; patented July 26, 1977; not available NTIS.

Patent 4,038,742: Method of Making Styrofoam Slotted Plane-Array Antenna; filed Sept. 15, 1976; patented Aug. 2, 1977; not available NTIS.

Patent 4,038,903: Two Stage Telescope Launcher; filed Aug. 23, 1976; patented Aug. 2, 1977; not available NTIS.

Patent 4,038,904: Cartridge Feed, Positioning and Ejection Control System; filed June 30, 1976; patented Aug. 2, 1977; not available NTIS.

Patent 4,038,905: Compressible Fluid Recoil System; filed Apr. 29, 1976; patented Aug. 2, 1977; not available NTIS.

Patent 4,039,360: Gelled Monomethylhydrazine Thixotropic Fuel; filed Sept. 9, 1971; patented Aug. 2, 1977; not available NTIS.

Patent 4,039,958: Circuits for Decoding Pulse Signals; filed Jan. 3, 1977; patented Aug. 2, 1977; not available NTIS.

Patent 4,039,976: Coaxial Current Probe; filed Aug. 14, 1975; patented Aug. 2, 1977; not available NTIS.

Patent 4,040,332: Variable Spring Rate Equilibrators; filed May 24, 1976; patented Aug. 9, 1977; not available NTIS.

Patent 4,040,356: Converging Wave Detonator; filed July 6, 1976; patented Aug. 9, 1977; not available NTIS.

Patent 4,040,359: Discarding Frangible Rotation Band; filed May 14, 1976; patented Aug. 9, 1977; not available NTIS.

Patent 4,040,577: Lockwood Airfoil Used in Conjunction with Man Transport Devices; filed Jan. 17, 1977 patented Aug. 9, 1977; not available NTIS.

Patent 4,040,647: Manual Controller for Vehicle Level Adjustment; filed Mar. 19, 1976; patented Aug. 9, 1977; not available NTIS.

Patent 4,041,488: Doppler Radar System; filed Apr. 19, 1976; patented Aug. 9, 1977; not available NTIS.

Patent 4,041,872: Wrapper, Structural Shielding Device; filed Sept. 10, 1971; patented Aug. 16, 1977; not available NTIS.

Patent 4,042, 927: Ability of a Monopulse Radar to Resolve and Track Jammers Passively; filed June 25, 1971; patented Aug. 16, 1977; not available NTIS.

Patent 4,042,946: Radiation Hardened Field Effect Device; filed Dec. 8, 1976; patented Aug. 16, 1977; not available NTIS.

Patent 4,043,177: Method to Observe Damage Induced in Optical Elements by Intense Thermal Radiation; filed Apr. 22, 1976; patented Aug. 23, 1977; not available NTIS.

Patent 4,043,204: Magnetic Fluid Bearing Accelerometer; filed Aug. 16, 1976; patented Aug. 23, 1977; not available NTIS.

Patent 4,043,249: Ammunition Conveyor Drive Cam; filed July 6, 1976; patented Aug. 23, 1977; not available NTIS.

Patent 4,043,250: Recoilable Gun Tube Latch; filed Jan. 28, 1976; patented Aug. 23, 1977; not available NTIS.

Patent 4,043,687: Latched Telescoping Members; filed Apr. 12, 1976; patented Aug. 23, 1977; not available NTIS.

Patent 4,044,620: Transmission; filed Dec. 10, 1975; patented Aug. 30, 1977; not available NTIS.

Patent 4,045,730: Incremental Method and System for Absolute Measurement of Coherent Power at Millimeter and Submillimeter Wave lengths; filed May 20, 1976; patented Aug. 30, 1977; not available NTIS.

Patent 4,047,114: Digital Detector; filed Aug. 6, 1976; patented Sept. 6, 1977; not available NTIS.

Patent 4,047,174: Method of Reducing the Radar Cross-Section of a Dielectric Body; filed July 7, 1968; patented Sept. 6, 1977; not available NTIS.

Patent 4,047,178: Low Loss Top Termination for Short Monopoles; files Sept. 22, 1976; patented Sept. 6, 1977; not available NTIS.

Patent 4,047,382: Thrust Management Control Propulsion System; filed Oct. 3, 1975; patented Sept. 13, 1977; not available NTIS.

Patent 4,047,484: Fuze with Bimetallic Spring Delay Module; filed June 29, 1976; patented Sept. 13, 1977; not available NTIS.

Patent 4,048,041: Electronic System for Providing Specificity in an Electrochemical Analytical Device; filed May 24, 1976; patented Sept. 13, 1977; not available NTIS.

Patent 4,048,568: Wide Operating Frequency Range Superheterodyne FM Noise Analyzer; filed Aug. 30, 1976; patented Sept. 13, 1977; not available NTIS.

Patent 4,048,580: Apparatus for Detecting a Stable Microwave Discrete Frequency; filed Oct. 18, 1976; patented Sept. 13, 1977; not available NTIS.

U.S. DEPARTMENT OF AGRICULTURE, Research Agreements and Patent Branch, General Services Division, Federal Building Agriculture Research Service, Hyattsville, Md. 20782.

Patent application 694,515: A Polyfluorinated Amine Oil-Repellent, Stain-Release Fabric Treatment; filed June 9, 1976.

Patent application 730,915: Wet-Wall Electroinertial Air Cleaner; filed Oct. 8, 1976.

Patent application 787,177: Antibacterial Textile Finishes Utilizing Zirconyl Acetate Complexes of Inorganic Peroxides; filed Apr. 15, 1977.

Patent application 794,597: Clarification of Citrus Juices; filed May 6, 1977.

Patent application 904,646: Method of Shrinkproofing Animal Fiber with Ozone; filed May 10, 1978.

Patent 4,068,167: Radial Electrode for Determing the Amount of Moisture in Seed Cotton; filed Sept. 1, 1976; patented Jan. 10, 1978; not available NTIS.

[FR Doc. 78-26939 Filed 9-25-78; 8:45 am]

[3510-17]

Office of the Secretary

[Department Organization Order 35-1A, Amdt. 3; Transmitted 413]

BUREAU OF ECONOMIC ANALYSIS

Delegation of Authority

This order effective August 23, 1978, further amends the materials appearing at 40 FR 42766 of September 16, 1975, 41 FR 8520, of February 27, 1976, and 42 FR 23676 of May 10, 1977.

Department Organization Order 35-1A of August 4, 1975, is hereby further amended as shown below. The purpose of this amendment is to update a previous delegation of the Secretary's authority under the International Investment Survey Act of 1976.

Section 3. *Delegation of Authority.* Subparagraph .01e. is revised to read as follows:

"e. Executive Order 11961 of January 19, 1977, as amended by E.O. 12013 of October 7, 1977, which delegates to the Secretary of Commerce the authority of the President under sections 4(a) (1), (2), and (4), and 4(b) of the International Investment Survey Act of 1976 (Pub. L. 94-472, 90 Stat. 2059, 22 U.S.C. 3101-3108). The functions thereunder shall be carried out in coordination with the Assistant Secretary for Industry and Trade (Department Organization Order 10-3), including, to the extent feasible, the division or assignment of responsibilities. All regulations established to carry out functions under the Act, and reports to be submitted to the Congress, shall be issued by the Secretary;"

JUANITA M. KREPS,
Secretary of Commerce.

GUY W. CHAMBERLIN, Jr.,
Acting Assistant Secretary for Administration.

[FR Doc. 78-27014 Filed 9-25-78; 8:45 am]

[3510-17]

[Department Organization Order 30-2B, Amdt. 1; Transmittal 411]

NATIONAL BUREAU OF STANDARDS

Organization and Function

This order effective August 15, 1978, amends the material appearing at 43 FR 15473 of April 13, 1978.

Department Organization Order 30-2B dated March 8, 1978, is hereby amended as shown below. The purpose of this amendment is to (1) revise the functional statements for the Management and Organization Division, the Center for Information Systems, and the National Measurement Laboratory, and (2) abolish the Information Technology Division.

1. Section 6. *Director of Administrative and Information Systems.* Paragraphs c. and d. are revised to read as follows:

"c. The *Management and Organization Division* shall provide consultative services to line management in organization, procedures, and management practices; maintain the directives system; perform reports management and committee management functions; and provide liaison with the Departmental Office of ADP Management.

"d. The *Center for Information Systems* shall provide computing and information processing services including operation of the central computing facility; design and maintain the automated administrative information systems; manage the publications program of NBS; provide library services; manage a network of administrative service centers and word processing centers for all Administrative and Information Systems Centers, and other organizational units in the Bureau as requested; manage support services for small purchase procurements, grants administration, and contract liaison with the Department of Commerce; manage office support services including visual arts, duplication, and forms and records management; provide consultative and advisory services on computer networking and related telecommunications requirements; coordinate the overall management and utilization of computing resources within the Bureau; and establish mechanisms to assure compliance with applicable Federal ADP Standards."

2. Section 7. *National Measurement Laboratory.* The paragraph entitled *National Measurement Laboratory* is revised to read as follows:

"The *National Measurement Laboratory* shall provide the national system of physical and chemical and materials measurement; coordinate the system with measurement systems of other nations and furnish essential services leading to accurate and uniform physical and chemical measurement throughout the nation's scientific community, industry, and commerce; conduct materials research leading to improved methods of measurement, standards, and data on the properties of materials needed by industry, commerce, educational institutions, and government; provide advisory and research services to other Government agencies; conduct physical and chemical research; develop, produce, and distribute Standard Reference Materials; provide standard reference data; provide calibration services; and collaborate with the National Engineering Laboratory and the Institute for Computer Sciences and Technology in carrying out the responsibilities of the National Measurement Laboratory."

3. Section 10. *Institute for Computer Sciences and Technology.* In the last sentence of section 10, the *Information Technology Division is deleted. The sentence is revised to read as follows:*

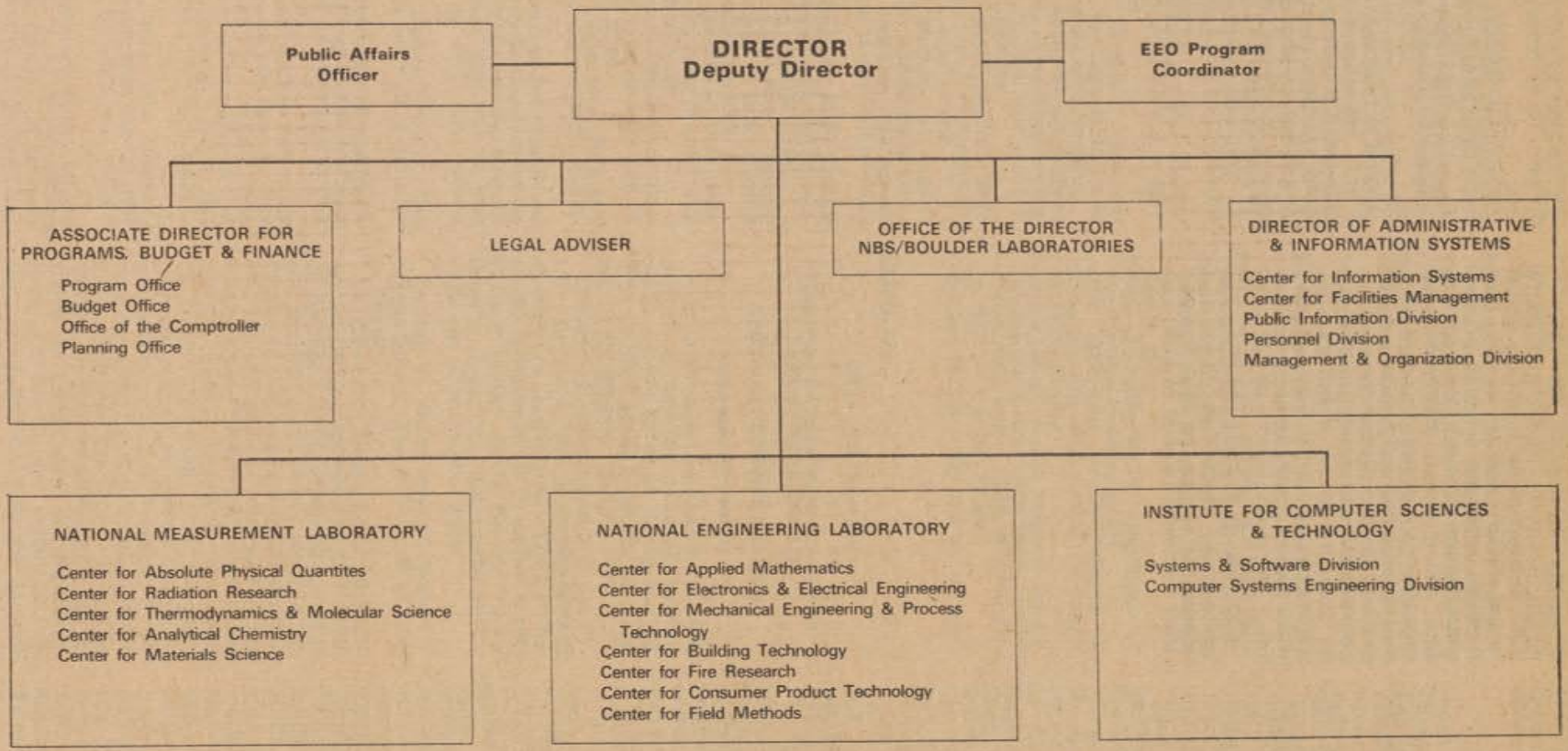
"The organizational units in the Institute shall be as follows:

"Systems and Software Division; and
"Computer Systems Engineering Division."

4. The organization chart attached to this amendment supersedes the chart dated March 8, 1978. A copy of the organization chart is on file with the original of this document in the Office of the Federal Register.

GUY W. CHAMBERLIN,
Acting Secretary
for Administration.

U.S. DEPARTMENT OF COMMERCE
National Bureau of Standards



AMENDMENT
AUGUST 15, 197

[FR Doc. 78-27013 Filed 9-25-78; 8:45 am]

[3510-17]

[Departmental Organization Order 25-4B, Amdt. 1; Transmittal 412]

OFFICE OF MINORITY BUSINESS ENTERPRISE

Organization and Function

This order effective August 22, 1978, further amends the materials appearing at 41 FR 21209 of May 24, 1976, and 41 FR 22291 of June 2, 1976.

Department Organization Order 25-4B of May 9, 1976, is hereby amended as shown below. The purpose of this amendment is to: establish the position of Executive Director of the Interagency Council for Minority Business Enterprise (IAC) (section 4.); establish the IAC Support Staff (section 9.); transfer certain functions from the Program Resources Division to the IAC Support Staff (section 8.); and revise the functions of the Regional Offices (section 10.).

1.a. A new section 4. is added to read as follows:

"Section 4. *Executive Director of the Interagency Council for Minority Business Enterprise.*

"The Executive Director of the Interagency Council for Minority Business Enterprise (IAC) shall direct the activities of the IAC Support Staff and otherwise support the Secretary and the Under Secretary in fulfilling their responsibilities for Federal government coordination under Executive Order 11625, as amended. The Executive Director shall report and be responsible to the Under Secretary, who is chairperson of the IAC.

b. In pen and ink renumber the existing sections 4., 5., and 6. as sections 5., 6., and 7.

2.a. In pen and ink renumber the existing section 7. as section 8.

b. Delete the word "and" after the semicolon at the end of paragraph 8.f.

c. Paragraph 8.g. is revised and new paragraphs 8.h. and 8.i. are added to read as follows:

"g. Plan, develop, and manage programs to generate and coordinate public and private sector support for the growth of minority business opportunities involving the commercialization of new and adaptive technology;

"h. Develop working relationships and agreements with other Federal departments and agencies in support of particular minority business activities; and

"i. Provide added support to the Secretary, Under Secretary, and the IAC in their Federal coordination responsibilities."

3. A new section 9. is added to read as follows:

"Section 9. *Interagency Council Support Staff.*

"The IAC Support Staff, under the direction of the IAC Executive Director, shall provide staff support for the activities of the IAC, its Chairperson, and committees, and local, interagency Minority Business Opportunity Committees (MBOC), in their efforts to mobilize and generate Federal agency support and resources on behalf of minority business development. In carrying out this function, the Staff shall:

"a. Develop and implement plans, and policy and program initiatives and studies, for IAC interagency and individual agency consideration and action, in keeping with the mission of the IAC;

"b. Assist in the development and coordination of government-wide minority business programs among Federal departments and agencies, and monitor and evaluate those programs;

"c. Provide necessary advice and counsel to IAC member agencies and committees; and

"d. Support the local Federal interagency MBOC, in carrying out their programs, as local counterparts of the IAC in many cities, to assist minority-owned businesses."

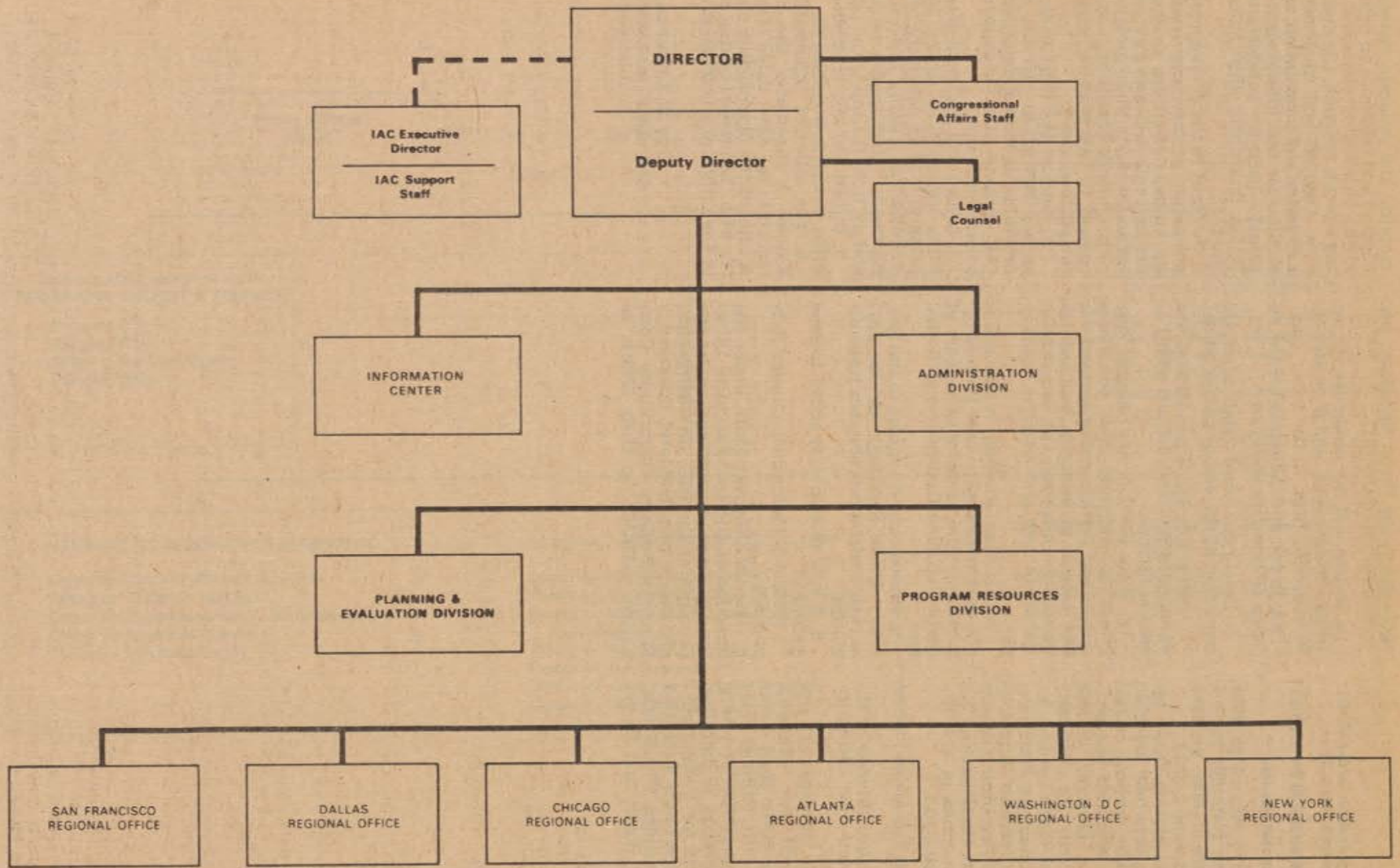
4. In pen and ink, renumber the existing section 8. as section 10. and in paragraph 10.01 delete the words "by coordinating specific Federal support regionally" that appear on lines five and six from the top of the paragraph.

5. In pen and ink, renumber the existing section 9. as section 11.

6. The attached organization chart Exhibit 1 supersedes the chart attached to the order dated May 9, 1976. A copy of the organization chart is on file with the original of this document in the Office of the Federal Register.

GUY W. CHAMBERLIN,
Acting Assistant Secretary for Administration.

U. S. DEPARTMENT OF COMMERCE
Office of Minority Business Enterprise



AMENDMENT 1
AUGUST 22, 1978

[FR Doc. 78-27012 Filed 9-25-78; 8:45 am]

[3510-25]

CERTAIN COTTON, WOOL, AND MAN-MADE FIBER TEXTILE PRODUCTS FROM INDIA

Adjusting Import Levels

SEPTEMBER 21, 1978.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Deducting 10.5 million square yards equivalent charged to the level of restraint established for Group II (Categories 330-369, 431-469 and 630-669) and charging the equivalent amount in dozens to the level covering mill-made apparel made from handloomed fabric (visaed with the elephant).

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773) and September 5, 1978 (43 FR 39408)).

SUMMARY: Under the terms of paragraph 10 of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 30, 1977, as amended, between the Governments of the United States and India, agreement was reached by the two governments, in consultations held the week of September 5, 1978, to reduce charges to the ceiling established for Group II during the twelve-month period which began on January 1, 1978, by 10.5 million square yards equivalent and charge the equivalent amount in dozens to the level established for mill-made apparel made from handloomed fabric. This change will affect only the Group II charges. Individual category charges within the group will not be affected.

EFFECTIVE DATE: September 27, 1978.

FOR FURTHER INFORMATION CONTACT:

Donald R. Foote, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230, 202-377-5423.

SUPPLEMENTARY INFORMATION: On February 2, 1978, there was published in the FEDERAL REGISTER (43 FR 4451) a letter of January 27, 1978, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs which established levels of restraint for certain specified categories of cotton, wool, and man-made fiber textile products, including those in Group II (Categories 330-369, 431-469, and 630-669), produced or manufactured in India, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, during the twelve-month period which began on January 1, 1978 and extends through December 31, 1978. In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to deduct 10.5 million square yards equivalent from the amount charged to the level for Group II and charge the equivalent amount to the level established for mill-made apparel made from handloomed fabric.

EDWARD GOTTFRIED,
Acting Chairman, Committee for the Implementation of Textile Agreements.

SEPTEMBER 21, 1978.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20229.

DEAR MR. COMMISSIONER: To facilitate implementation of the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of December 30, 1977, as amended, between the Governments of the United States and India, you are requested, effective on September 27, 1978, to reduce the charges to Group II (Categories 330-369, 431-469 and 630-669) for goods exported after December 31, 1977 during the current agreement period by 10.5 million square yards equivalent. A charge of 650,000 dozen should be made to the level of restraint established for the same period for mill-made apparel made from handloomed fabric, visaed with the elephant. This change is to affect only the Group II charges. Individual category charges within the group will not be affected.

This letter will be published in the FEDERAL REGISTER.

Sincerely,

EDWARD GOTTFRIED,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 78-27089 Filed 9-25-78; 8:45 am]

[3710-08]

DEPARTMENT OF DEFENSE

Department of the Army

PRIVACY ACT OF 1974

New System of Records

AGENCY: Department of the Army.

ACTION: Notification of a new system of records.

SUMMARY: The Department of the Army proposes a new system of records identified as A0714.06c, entitled: "AMEDD Personnel Management System". The record system notice is published in its entirety below.

DATES: This system shall become effective as proposed without further notice on October 26, 1978, unless comments are received on or before October 26, 1978, which would result in a contrary determination requiring republication for further comments.

ADDRESS: Send comments to the system manager identified in the record system notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Guy B. Oldaker, Administrative Management Directorate, The Adjutant General Center, Department of the Army, Room GA-084, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20314, telephone 202-693-0973.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices, as prescribed by the Privacy Act have been published in the FEDERAL REGISTER as follows:

FR Doc. 77-28255 (42 FR 50396), September 28, 1977.
FR Doc. 77-32975 (42 FR 50999), November 15, 1977.
FR Doc. 78-1855 (43 FR 3151), January 23, 1978.
FR Doc. 78-9239 (43 FR 14713), April 7, 1978.
FR Doc. 78-9713 (43 FR 15353), April 12, 1978.
FR Doc. 78-17146 (43 FR 26606), June 21, 1978.
FR Doc. 78-17737 (43 FR 27882), June 27, 1978.
FR Doc. 78-18880 (43 FR 29600), July 10, 1978.
FR Doc. 78-19614 (43 FR 30594), July 17, 1978.
FR Doc. 78-21772 (43 FR 34520), August 4, 1978.
FR Doc. 78-23953 (43 FR 38070), August 25, 1978.
FR Doc. 78-25562 (43 FR 40272), September 11, 1978.

The Department of the Army has submitted a new system report on August 21, 1978, pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a(o)).

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

SEPTEMBER 20, 1978.

A0714.06cDASG

System name:

AMEDD Personnel Management System

System location:

United States Army Medical Department Personnel Support Agency (USAMEDDPERSA), 1900 Half Street SW., Washington, D.C. 20324.

Categories of individuals covered by the system:

Individuals either applying for commissions in, on active duty as an officer in, or recently released from active duty in one of the six Army Medical Department Corps.

Categories of records in the system:

The categories of information stored include name, social security number (SSN), sex, race, date and place of birth, home of record, dependent data, physcial profile data, religious preference, ethnic group, citizenship, marital status, personal mailing address, professional qualification data, assignment data, promotion data, education and training data, awards and badges, and incentive pay data.

Authority for maintenance of the system:

Title 5 U.S.C. Section 301; Title 10 U.S.C.; Title 37 U.S.C.; and Executive Order 9397.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Department of Army—Used for strength accounting, manpower and budgetary management, recruitment, military service career management of officers to include assigments, promotion, professional development and training, and in the administration of Variable Incentive Pay Program.

Department of Defense—Used for interdepartmental management regarding medical assets, and development of policies and statistical accounting.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Records are stored on computer magnetic tape and disk.

Retrievability:

Normal access is by name, the first data element in the file, with SSN or other individual or group discriminators for positive identification. Computerized indices are utilized in record retrievals.

Safeguards:

Physical security devices, limited access via building guard and personnel clearances will limit computer access be only autorized personnel. Each on-line terminal access or update to the system will be protected through a system of passwords that will restrict each user to specific data elements. Password changes will be made incrementally at the rate of 20 percent per month. System reconstruction procedures provide for two copies of files, programs, and procedures in-house and one copy at an offsite location both updated and maintained in an operational condition.

Retention and disposal:

Records are retained on an active file for three months after separation, and accumulated on an inactive file for five years after separation.

System manager(s) and address:

Commander, United States Army Medical Department Personnel Support Agency, 1900 Half Street SW., Washington, D.C. 20324.

Notification procedure:

Information may be obtained form: Commander, USAMEDDPERSA, 1900 Half Street SW., Washington, D.C. 20324.

Record access procedures:

Requests from individuals should be addressed to: Commander, USAMEDDPERSA, 1900 Half Street SW., Washington, D.C. 20324.

Written requests for information should contain the full name of the individual, SSN, current or former military status, and appropriate return address.

Vists may be made to USAMEDDPERSA. Individual should be able to provide some acceptable identification, and give some verbal information that could be verfied with his/her record.

Contesting record procedures:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in 32 CFR Part 505 (Army Regulation 340-21).

Record source categories:

Data contained in this system of records is obtained in document and computer readable form from the following systems of records: (1) AMEDD Officer Variable Incentive Pay, (2) Army Medical Procurement Applicant Files, (3) Officer Master File, (4) Career Management Individual Files, (5) AMEDD Training Application Status Record, (6) Long Term Civilian Training Student Contract Files, (7) Residency, Subspecialty and Fellowship Training, and (8) US Army Graduate Medical Education Trainee Card File.

Systems exempt from certain provisions of the act:

None.

[FR Doc. 78-26996 Filed 9-25-78; 8:45 am]

[3810-70]

Office of the Secretary

MEDICAL REIMBURSEMENT RATES FOR FISCAL YEAR 1979

Inpatient and Outpatient Medical Care

Notice is hereby given that the Assistant Secretary of Defense (Comptroller), on September 13, 1978, has issued the following memorandum to the Assistant Secretaries of the Army (IL&FM), Navy (FM), and Air Force (FM):

Reimbursement rates for inpatient and outpatient medical care are hereby established for fiscal year 1979 as follows:

For general patients:	
Per inpatient day:	
General medical and dental care	$242.00
Burn Center, Brooke Army Hospital	634.00
Per outpatient visit:	
General medical and dental care	23.00
For International Military Education Training (IMET) students:	
Per inpatient day:	
General medical and dental care	102.00
Burn Center, Brooke Army Hospital	328.00
Per outpatient visit	10.00
For dependents of military personnel:	
Per inpatient day	4.65
For FAA Air Traffic Controllers:	
Per examination	51.00

MAURICE W. ROCHE,

Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

SEPTEMBER 21, 1978.

[FR Doc. 78-26998 Filed 9-25-78; 8:45 am]

[6740-02]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP72-110]

ALGONQUIN GAS TRANSMISSION CO.

Rate Change Pursuant to Purchased Gas Cost Adjustment Provision

SEPTEMBER 15, 1978.

Take notice that Algonquin Gas Transmission Co. (Algonquin Gas) on September 5, 1978, tendered for filing Revised 42d Revised Sheet No. 10 to its FERC Gas Tariff, First Revised Volume No. 1.

Algonquin states that this sheet is being filed pursuant to Algonquin Gas' Purchased Gas Cost Adjustment Provision to reflect a change in purchased gas costs filed by its pipeline supplier, Texas Eastern Transmission Corp. and that the proposed effective date is August 1, 1978.

A copy of this filing is being served upon all affected parties and interested State commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 26, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26781 Filed 9-25-78; 8:45 am]

[6740-02]

[Docket No. RI78-85]

AN-SON CORP.

Petition for Special Relief

SEPTEMBER 15, 1978.

Take notice that on August 4, 1978, An-Son Corp. (Petitioner), 3814 North Santa Fe, Oklahoma City, Okla. 73118, filed a petition for special relief in docket No. RI78-85, pursuant to § 2.76(d)(1) of the Commission's General Policy and Interpretations (18 CFR 2.76(d)(1)).

Petitioner requests authorization to charge 49.9¢ per Mcf for the sale of gas from its Barby-Featherstone No. 1 Well, section 30; T4N, R24E, Beaver County, Okla., to Northern Natural Gas Co. The increased rate is sought in order to enable Petitioner to install compression facilities to correct pressure problems in the well.

Any person desiring to be heard or to make any protest with reference to said petition should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8, or 1.10). All such petitions or protests should be filed on or before October 10, 1978. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26782 Filed 9-25-78; 8:45 am]

[6740-02]

[Docket No. RI78-87]

CHARLES B. WILSON, JR., LTD.

Petition for Special Relief

SEPTEMBER 15, 1978.

Take notice that on August 17, 1978, Charles B. Wilson, Jr., Ltd. (Petitioner), 1616 West Loop South, Suite 310, Houston, Tex. 77027, filed a petition for special relief in Docket No. RI78-87 pursuant to § 2.76 of the Commission's General Policy and Interpretations (18 CFR Part 276).

Petitioner requests authorization to charge $1.35 per Mcf at 14.73 psia for the sale of gas from its Rosa B. Neff Gas Unit No. 1 Well, Keyes Field, Cimarron County, Okla., to Colorado Interstate Gas Co. Petitioner asserts that it is not economically feasible at the present rate of 65¢ per Mcf at 14.73 psia to continue the compression and saltwater disposal operations required to produce known reserves.

Any person desiring to be heard or to make any protest with reference to said petition should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before October 10, 1978. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26783 Filed 9-25-78; 8:45 am]

[6740-02]

[Docket No. ID-1768]

CLAUD FREDERICK DAVIS

Application

SEPTEMBER 15, 1978.

Take notice than on August 25, 1978, Claud Frederick Davis, (Applicant) filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Controller, Kentucky Utilities Co., Public Utility.
Controller, Old Dominion Power Co., Public Utility.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 29, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26785 Filed 9-25-78; 8:45 am]

[6740-02]

[Docket No. ER78-609]

CLIFFS ELECTRIC SERVICE CO.

Filing

SEPTEMBER 18, 1978.

Take notice that on September 12, 1978, Cliffs Electric Service Co. (CESCO) tendered for filing pursuant to Section 205 of the Federal Power Act and Part 35 of the Commission's regulations a letter agreement dated June 30, 1978 for the sale of short-term firm power by CESCO to the Upper Peninsula Power Co. (UPPCO).

CESCO states that under the proposed agreement, CESCO will sell to UPPCO 4000 Kw of firm electric generating capacity from September 3, 1978 through December 30, 1978, and continuing weekly thereafter until April 28, 1978 at the mutual agreement of the parties. CESCO requests that the effective date of this letter agreement be September 3, 1978, and requests waiver of the notice provisions of § 35.3 of the Commission's regulations.

Copies of the filing were served on UPPCO, according to CESCO.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or

before October 2, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26784 Filed 9-25-78; 8:45 am]

[6740-02]

[Docket No. CP77-8]

COLUMBIA GULF TRANSMISSION CO.

Petition to Amend Pipeline Certificate

SEPTEMBER 18, 1978.

Take notice that on September 5, 1978, Columbia Gulf Transmission Co. (Columbia Gulf), P.O. Box 683, Houston, Tex. 77001, filed in Docket No. CP77-8 a petition to amend the certificate issued May 6, 1977, to allow the transportation of gas from two (2) additional Northern Natural Gas Co. (Northern) delivery points, as a result of the unitization of the several wells into the Eugene Island 330 Field, Offshore Louisiana, all as more fully set forth in the petition on file with the Commission and open to public inspection.

Columbia Gulf states that said certificate authorized a transportation arrangement for such quantity of gas which Northern purchased from Exxon Co. U.S.A.'s interest in Block 332, Eugene Island Area. The petitioner now proposes that in addition such gas be deliverable from the aforementioned two (2) additional delivery points. The addition of gas from the two (2) additional delivery points will not cause the total volume of gas from all four (4) delivery points to exceed 14,000 Mcf of gas per day.

Any person desiring to be heard or to make any protest with reference to said application, on or before October 10, 1978, should file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26786 Filed 9-25-78; 8:45 am]

[6740-02]

[Docket No. ER78-612]

DETROIT EDISON CO.

Proposed Tariff Change

SEPTEMBER 18, 1978.

Take notice that The Detroit Edison Co. (Detroit Edison) on September 1, 1978, tendered for filing a new Interconnection Agreement between the City of Detroit and The Detroit Edison Company. Detroit Edison indicates that this new agreement will replace in its entirety an interconnection agreement now in effect between the parties since October 1, 1971. Detroit Edison further indicates that the new interconnection agreement does not increase current rates and charges but does expand the services available to the parties. Detroit Edison states that the new agreement provides for new Displacement Power, Diversity Power, and Wheeling services while removing obligations for specified installed reserve responsibilities.

Detroit Edison further states that the proposed changes are desirable by the parties to assure adequate and fair compensation for services rendered and to encourage the availability of the full range of services. Detroit Edison proposes an effective date of October 1, 1978.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 25, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this Agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26787 Filed 9-25-78; 8:45 am]

[6740-02]

[Docket Nos. RP78-65 and RP75-114]

EAST TENNESSEE NATURAL GAS CO.

Report of Flow Through of Refunds

SEPTEMBER 18, 1978.

Take notice that on September 12, 1978, East Tennessee Natural Gas Co. (East Tennessee) tendered for filing a Report of Flow Through of Refunds made pursuant to the Commission's order dated August 2, 1978, in Docket No. RP78-65 and the Settlement Agreement dated June 28, 1976, in Docket Nos. RP75-114, et al., approved by the Commission's order dated October 13, 1976.

East Tennessee states that on October 24, 1977, it received a refund from Tennessee Gas Pipeline Co., a Division of Tenneco Inc., (Tennessee) representing the refund payable to East Tennessee resulting from the Commission's Opinion Nos. 769 and 769-A in Docket No. RP73-113. East Tennessee also states that in flowing through the jurisdictional portion of the refund to its jurisdictional customers on December 8, 1977, it retained a portion of the Tennessee refund pursuant to a currently effective tariff provision because such portion was not final and nonappealable. East Tennessee further states that pursuant to its tariff filing in response to a show cause proceeding as to why East Tennessee's tariff should not be revised, it is flowing through the jurisdictional portion of the retained refund with interest for the period such refund was retained. Furthermore, East Tennessee states that the refund report shows the distribution of the refund to each of its jurisdictional customers.

East Tennessee states that copies of the filing have been mailed to all its jurisdictional customers and affected State regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance

with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 27, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene; provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26788 Filed 9-25-78; 8:45 am]

[6740-02]

[Docket No. ES78-56]

EL PASO ELECTRIC CO.

Application

SEPTEMBER 18, 1978.

Take notice that on September 1, 1978, El Paso Electric Company (Applicant) filed a petition with the Federal Energy Regulatory Commission seeking approval of Applicant's proposed assumption of liability for the notes to be issued by an independent trust to be established for the principal purpose of providing long-term financing of the cost of nuclear fuel to be used in the Arizona Nuclear Power Project (the Project), also known as the Palo Verde Nuclear Generating Station, in Maricopa County, Ariz., in which Applicant is a participant. Applicant estimates its total cost for such nuclear fuel will be $30 million by the time Unit 1 of the Project comes on line in 1982.

An independent trust (the Trust) will be established with authority to borrow funds necessary (i) to reimburse the Applicant for all past and future expenditures made with respect to its nuclear fuel requirements, and (ii) to permit the investment by the Trust in notes and commercial paper of Applicant, its wholly-owned subsidiaries and Big Bend Resources Trust (a trust financing arrangement for fuel oil consumed by Applicant).

Applicant will enter into a contract with the Trust providing (i) for the agreement by Applicant to assign to the Trust Applicant's interest in the nuclear fuel agreements relating to the Project, (ii) for the agreement by the Trust to borrow such sums as shall be necessary for the Trust to honor its obligations under the nuclear fuel agreements assigned to it, (iii) for the agreement by Applicant to purchase the enriched nuclear fuel (or heat generated thereby) at or shortly prior to its being loaded in the Project reactor, with the purchase price being related to the Trust's investment in the nuclear fuel and payable in accordance with various options the Applicant may elect at such time, (iv) for the agreement by Applicant at termination of the Trust to pay the Trust such amounts as shall be necessary for the Trust to honor all of its obligations, and (v) the agreement by the Trust to reimburse Applicant for all previous expenditures made with respect to the nuclear fuel covered by the nuclear fuel agreements assigned to the Trust and all subsequent expenditures by Applicant in connection therewith.

The Trust will enter into a loan arrangement with a lender (the Lender) providing for a $30 million loan commitment (the Commitment) to the Trust involving (i) the issuance by the Lender of an irrevocable letter of credit in the amount of the Commitment to back up the issuance by the Trust of commercial paper notes (the Commercial Paper Notes) not in the aggregate to exceed the amount of the Commitment less the aggregate amount of the funded notes (the Funded Notes) hereinafter described, (ii) a revolving line of credit in the amount of the Commitment the borrowings against which are to be evidenced by the Funded Notes of the Trust, (iii) the right of the Lender to terminate the Loan Agreement five (5) years after its date, provided that the Lender has given notice of its desire to terminate at least three (3) years prior to the effective date, otherwise the loan arrangement to continue for additional one (1) year periods until the necessary three (3) year notice of termination is given, (iv) the ability of the Trust to prepay the principal of the Funded Notes in whole or in part at any time without penalty and to reduce the amount of the Commitment from time to time, (v) the payment by the Trust of certain commitment fees and letter of credit fees to the Lender, (vi) the granting by the Trust to the Lender of a security interest in the Trust's interests in the nuclear fuel agreements assigned to it by Applicant and the contract in which Applicant agrees to purchase the enriched nuclear fuel, (vii) a limitation upon the investment the Trust may make in notes and commercial paper of Applicant's wholly-owned subsidiaries and Big Bend Resources Trust, and (viii) the execution by the Trust of a depository agreement governing the terms of issuance of the Commericial Paper Notes.

The Trust financing arrangement is designed to provide financing for $30 million of Applicant's nuclear fuel requirements. In the interim until the full $30 million investment by Applicant in nuclear fuel is required, the Trust may invest the proceeds in commercial paper of the Applicant, notes of its subsidiaries and of Big Bend Resources Trust (which provides Applicant's fuel oil requirements—see Docket No. ES77-9), as well as other investments.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 29, 1978. Protests will be considered by the commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26789 Filed 9-25-78; 8:45 am]

[6740-02]

[Docket No. RP78-90]

EL PASO NATURAL GAS CO.

Proposed Changes in FERC Gas Tariff

SEPTEMBER 18, 1978.

Take notice that El Paso Natural Gas Co. ("El Paso"), on August 31, 1978, tendered for filing proposed changes in special Rate Schedule F-2 to its FERC Gas Tariff, Third Revised Volume No.2. The proposed changes would decrease revenues from a field sale in Dewey County, Okla., to Michigan Wisconsin Pipe Line Co. under El Paso's Rate Schedule F-2 by $33,463, based on an estimated sales volume for the twelve-month period succeeding the proposed effective date of October 1, 1978.

El Paso states that the instant filing is being made pursuant to Section 2.56a of the Commission's Statement of General Policy and Interpretations and in accordance with Article XI of said Rate Schedule F-2. Such filing reflects a 1.0 cent increase in the base rate attributable to the quarterly escalation provisions allowed by the Commission's Opinion No. 770-A issued November 5, 1976, at Docket No. RM75-14, for 1975-76 biennium gas. El Paso further states, however, that due to certain Btu adjustments utilized in the calculation of the subject rate, the proposed change in rate is a net decrease of 6.8891 cents per Mcf.

In connection with the instant notice of change, El Paso also ten-

dered for filing and acceptance Eleventh Revised Sheet No. 1-D.1 to its FERC Gas Tariff, Third Revised Volume No. 2. El Paso states that said tariff sheet reflects the decreased rate proposed to be collected by El Paso under Rate Schedule F-2, commencing on October 1, 1978.

Any person desiring to be heard or to make any protest with reference to said tariff filing should, on or before September 25, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C., 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. Copies of this filing are on file with the Commission and are available for public inspections.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26790 Filed 9-25-78; 8:45 am]

[6740-02]

[Docket Nos. CS78-673, etc.]

KAMLOK, INC., ET AL.

Applications for "Small Producer" Certificates [1]

SEPTEMBER 18, 1978.

Take notice that each of the applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the Regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before October 10, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

Docket No.	Date filed	Applicant
CS78-673	Aug. 16, 1978	KAMLOK, Inc., P.O. Box 40262, Houston, Tex. 77040.
CS78-674	Aug. 14, 1978	Inter-American Energy Corp., 1897 Northwest 21st St., Miami, Fla. 33142.
CS78-675	do	Guy S. Williams, 1370 Berkeley Way, Ukiah, Calif. 95482.
CS78-676	do	CERCO Petroleum, Inc., P.O. Box 3476, Abilene, Tex. 79604.
CS78-677	do	J.G.S. Oil Co. and Paul R. Polak, Associates, 666 Sherman St., Denver, Colo. 80203.
CS78-678	do	John I. Gordon, P.O. Box 3052, Grand Junction, Colo. 81501.
CS78-679	do	W. D. L. Enterprises, Inc., 9051 Mansfield Rd., Shreveport, La. 71118.
CS78-680	do	R. S. Livingstone, Jr., 1790 30th St., Boulder, Colo. 80301.
CS78-681	do	Costa Resources, Inc., 3303 Lee Parkway, Dallas, Tex. 75219.
CS78-682	do	Jim V. Haddox, 1000 Cypress St., West Monroe, La.
CS78-683	do	Joe Preaus, 1000 Cypress St., West Monroe, La.
CS78-684	do	Bobby Jenny, 1000 Cypress St., West Monroe, La.
CS78-685	do	Don Acree, 1000 Cypress St., West Monroe, La.
CS78-686	Aug. 15, 1978	Neva Crouch Carlisle, Patsy Ann LaMunyon, and Bobby Jeanne Bryant, trustees of the Carlisle Trust No. 1, Laverne, Okla. 73848.
CS78-687	do	McRae Exploration, Inc., 2200 Esperson Bldg., Houston, Tex. 77002.
CS78-688	do	Petrofunds, Inc., 2200 Esperson Bldg., Houston, Tex. 77002.
CS78-689	do	Clifford Resources, Inc., 1140 Northwest 63d, Suite 200, Oklahoma City, Okla. 73116.
CS78-690	Aug. 16, 1978	Philip R. Bishop, 1500 First National Bank Bldg., Fort Worth, Tex. 76102.
CS78-691	do	Sovereign Exploration Co., 4925 Greenville Ave., Suite 1330, Dallas, Tex. 75206.
CS78-693	Aug. 17, 1978	Thomas K. Glenn, P.O. Box 178, Shreveport, La. 71161.
CS78-694	Aug. 18, 1978	Roy L. McKay, P.O. Box 2014, Roswell, N. Mex.
CS78-695	Aug. 21, 1978	Heston Oil Co., Suite 4620, 1 Williams Center, Tulsa, Okla. 74103.
CS78-696	do	Logue & Patterson Inc., 1300 1 Energy Square, Dallas, Tex. 75206.
CS78-697	do	Major Oil Development Co., 2605 Virginia St. NE., Albuquerque, N. Mex.
CS78-698	Aug. 22, 1978	A. N. Munoy, 1910 Washington, Artesia, N. Mex. 88210.
CS78-700	Aug. 25, 1978	Sylvia McLane Turnbull, 3747 High Meadows, Abilene, Tex. 79605.
CS78-701	Aug. 23, 1978	Callon Petroleum Co., P.O. Box 1287, Natchez, Miss. 39120.
CS78-702	do	Jelliffe Oil Co., 901 Northeast Loop 410, Ste. 634, San Antonio, Tex. 78209.
CS78-703	Aug. 28, 1978	Beta Exploration, Inc., 601 Denver Club Bldg., Denver, Colo. 80202.
CS78-704	Aug. 24, 1978	Peter Paul Petroleum Co., 1100 Milam, Suite 580, Houston, Tex. 77002.
CS78-705	do	CALPETCO Exploration Partnership 1974, and James Michael, 465 California St., No. 906, San Francisco, Calif. 94104.
CS78-706	Aug. 25, 1978	J. E. Shelton, 7364 South Darlington, Tulsa, Okla. 74136.
CS78-707	do	Jack Hartman, 2934 Nevada St., Manhattan, Kans. 66502.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No.	Date filed	Applicant
CS78-708	do	Dr. J. M. Brooks, P.O. Box 272, Atlanta, Tex. 75551.
CS78-709	do	Colorado Gas Gathering Co., P.O. Box 8405, Midland, Tex. 79703.
CS78-710	do	Olinkraft, Inc., P.O. Box 488, West Monroe, La. 71291.
CS78-711	Aug. 28, 1978	S. Keith Engelke, D-407 Petroleum Center, San Antonio, Tex. 78209.
CS78-712	do	C. C. G. P., Ltd., P.O. Box 788, Duncan, Okla. 73533.
CS78-713	do	Rambler Oil Co., 1470C First National Center, Oklahoma City, Okla. 73102.
CS78-714	do	Southeastern Pipe Line Co., 1618 C & I Bldg., Houston, Tex. 77002.
CS78-715	do	Donnell Pipe & Supply Co., P.O. Box 1265, Kilgore, Tex. 75662.
CS78-716	do	Frank Douglass, 1515 City Bank Bldg., Austin, Tex. 78701.
CS78-717	do	Frank I. Brooner, Jr., D-410 Petroleum Center, San Antonio, Tex. 78209.
CS78-718	do	Betty W. Bohm, 700 Commercial National Bank Bldg., Shreveport, La. 71101.
CS78-719	do	Hargrove Land & Co., P.O. Drawer B, Shreveport, La. 71161.
CS78-720	do	C. R. Scurlock, 526 Louisiana Bank Bldg., Shreveport, La. 71101.
CS78-721	do	R. H. Engelke, D-407 Petroleum Center, San Antonio, Tex. 78209.
CS78-722	do	Nueve Operating Co. of Texas, 401 First State Bank Bldg., Abilene, Tex. 79602.
CS78-723	do	Glenn G. Mortimer, Jr., 8700 Crownhill Rd., Suite 506, San Antonio, Tex. 78209.
CS78-724	do	Glenn G. Mortimer, III, 8700 Crownhill Rd., Suite 506, San Antonio, Tex. 78209.
CS78-725	do	Mortco, Inc., 8700 Crownhill Rd., Suite 506, San Antonio, Tex. 78209.
CS78-726	do	Weiser-Brown Oil Co., Box 805, Magnolia, Ark. 71753.
CS78-727	Aug. 29, 1978	Great Yellowstone Corp., 2431 East 51st St., Tulsa, Okla. 74105.
CS78-728	do	Presser Royalty Co., 918 San Jacinto Bldg., Houston, Tex. 77002.
CS78-729	Aug. 31, 1978	Craig Morris Oil, Inc., P.O. Box 730, 511 Industrial Blvd., R.F.D. 4, Winfield, Kans. 67156.
CS78-730	do	Walter N. Grimes, 900 Northwest Loop 410, San Antonio, Tex. 78209.
CS78-731	do	SLR New Mexico Associates, 1420 Americana Bldg., Houston, Tex. 77002.
CS78-732	do	Best & Sherman Oil Co., P.O. Box 432, Chandler, Okla. 74834.
CS78-733	Aug. 30, 1978	Robert W. Flynn, 1626 West Pine, Wichita, Kans. 67203.
CS78-734	do	John L. Copeland, 804 Beck Bldg., Shreveport, La. 71101.
CS78-735	Sept. 1, 1978	Doverspike Gas Venture—1977, R.D. No. 1, Dayton, Pa. 16222.
CS78-736	Aug. 29, 1978	Peter M. Mark, general partner, Mark Oil & Gas Ltd. (1978 program), Suite 1030, Charleston National Plaza, Charleston, W. Va. 25301.
CS78-737	Sept. 5, 1978	Richard T. Brady, 500 National Bank of Commerce Bldg., San Antonio, Tex. 78205.
CS78-738	do	Dixie M. McLane Grandchildren's Trust, 1000 LTV Tower, Dallas, Tex. 75201.
CS78-739	do	JiCo, Inc., 3000 United Founders Blvd. 102G, Oklahoma City, Okla. 73112.
CS78-740	do	L. G. Williams Oil Co., Inc., 950 National Foundation Life Bldg., Oklahoma City, Okla. 73112.
CS78-741	do	Harold K. Quinn, P.O. Box 1738, Shreveport, La. 71166.
CS78-742	do	Everest Exploration—1978 Oil & Gas, Suite 1420, Bank & Trust Tower, Corpus Christi, Tex. 78477.
CS78-743	do	Cremer Oil Co., 900 Northeast Loop 410, San Antonio, Tex. 78209.
CS78-744	do	Roland C. Sherrer, Jr., Cove Neck Rd., Oyster Bay, N.Y. 11771.
CS78-745	Sept. 6, 1978	Mary Jean Bennett, 4645 Ocean Drive No. 4A, Corpus Christi, Tex. 78412.
CS78-746	Sept. 5, 1978	David G. McLane Trust, 1000 LTV Tower, Dallas, Tex. 75201.

[FR Doc. 78-26733 Filed 9-25-78; 8:45 am]

[6740-02]

[Docket No. ID-1566]

MICHAEL R. WHITLEY

Application

SEPTEMBER 15, 1978.

Take notice that on August 25, 1978, Michael R. Whitley (Applicant) filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Vice president, secretary, Kentucky Utilities Co., public utility.
Vice president, secretary, Old Dominion Power Co., public utility.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 29, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26778 Filed 9-25-78; 8:45 am]

[6740-02]

[Docket Nos. G-18886, etc.]

TEXAS GAS TRANSMISSION CORP., ET AL.

Filing of Pipeline Refund Reports and Refund Plans

SEPTEMBER 15, 1978.

Take notice that the pipelines listed in the appendix below have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown in the appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with or mailed to the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before September 29, 1978. Copies of the respective filings are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

APPENDIX

Filing date	Company	Docket No.	Type filing
Aug. 3, 1978	Texas Gas Transmission Corp	G-18886	Report.
Aug. 14, 1978	United Gas	AR69-1	Do.
Aug. 16, 1978	Clay Basin	CP77-512	Do.

[FR Doc. 78-26732 Filed 9-25-78; 8:45 am]

[6704-02]

[Docket No. CP78-515]

UNITED GAS PIPE LINE CO. AND MICHIGAN WISCONSIN PIPE LINE CO.

Pipeline Application

SEPTEMBER 15, 1978.

Take notice that on September 11, 1978, United Gas Pipe Line Co. (United), P.O. Box 1478, Houston, Tex. 77001, and Michigan Wisconsin Pipe Line Co. (Mich-Wis), One Woodard Avenue, Detroit, Mich. 48226, filed in Docket No. CP 78-515, a joint application pursuant to Section 7(c) of the Natural Gas Act, as amended, requesting authorization to particpate in the construction and operation of offshore facilities which are now under construction by Texas Gas Transmission Corp. (Texas Gas), all as more fully set forth in the application on file with the Commission and open to public inspection.

United and Mich-Wis state that pursuant to an ownership agreement dated July 31, 1978, between United and Mich-Wis will each hold a 16.665 percent undivided interest in approximately 1.19 miles of 12-inch pipeline and related facilities extending from the producer's platform in High Island Area, Block A-302 to a subsea tap on the HIOS 30-inch pipeline in Block A-303 High Island Area.

Any person desiring to be heard or to make any protest with reference to said application, on or before October 10, 1978, should file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26776 Filed 9-25-78; 8:45 am]

[6740-02]

[Docket No. RP74-85 (PGA78-2)]

WESTERN GAS INTERSTATE CO.

PGA Rate Increase

SEPTEMBER 15, 1978.

Take notice that on August 31, 1978, Western Gas Interstate Co. ("Western") filed herein Tenth Revised Sheet No. 3A to its FERC Gas Tariff, Original Volume No. 1. Said tariff sheet is proposed to become effective on October 1, 1978.

Western states the proposed increase in rates is being filed in accordance with its Tariff's PGA clause which permits the recovery of increases in the cost of gas and unrecovered purchased gas costs. Western further states the proposed Purchase Gas Cost Adjustment for the Northern Division is 0.68 cents per Mcf; for the Southern Division it is 17.02 cents per Mcf. The proposed surcharge adjustment is 9.52 cents per Mcf for the Northern Division and of 18.58 cents per Mcf for the Southern Division; the surcharge adjustments will only be effective over the 6-month period October 1, 1978, through March 30, 1979.

Western has also filed herein Alternate Tenth Revised Sheet No. 3A to its FERC Gas Tariff, Original Volume No. 1. The proposed effective date is October 1, 1978, and Western states that it prefers the acceptance of this alternate tariff sheet since it provides for the recovery of certain purchased gas costs which were not included in prior deferrals due to certain clerical errors made at the time of the filing settlement tariff sheets in Western's last general rate proceeding, Docket No. RP77-94.

Any person desiring to be heard and to make any protest with reference to said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 22, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Western's filing is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26777 Filed 9-25-78; 8:45 pm]

[6740-02]

[Docket No. CP77-565]

WESTERN GAS INTERSTATE CO.

Amendment to Application

SEPTEMBER 15, 1978.

Take notice that on August 31, 1978, Western Gas Interstate Co. (Applicant), 1800 First International Building, Dallas, Tex. 75270, filed in Docket No. CP77-565 an amendment to its pending application in said docket pursuant to section 7(c) of the Natural Gas Act so as to provide for an exchange of natural gas with Cities Service Gas Co. (Cities Service), the continued use of certain facilities to be used in connection with this exchange, and the sale of such gas to Southern Union Gas Co. (Southern Union), all as more fully set forth in the amendment on file with the Commission and open to public inspection.[1]

It is indicated that pursuant to an exchange agreement dated July 11, 1951, a substantial deficit exchange balance is due to Applicant from Cities Service. In order to correct this deficit

[1] This proceeding was commenced before the FPC. By joint regulation of Oct. 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

balance and to provide additional gas volumes to Applicant, Applicant entered into an agreement with Cities Service dated June 8, 1977, providing for the exchange of gas between Cities Service and Applicant at various points in Texas County, Okla., and filed an application for certificate authorization on August 12, 1977, in this docket, it is said. Applicant states that its amendment, pursuant to an agreement between Cities Service and Applicant dated August 28, 1978, modifies its original application be deleting the request to abandon Cities Service's sale to Applicant of production from the Jones A No. 1 and B No. 1 wells, by continuing under a different rate schedule the sale of gas by Cities Service to Applicant which had been proposed to be abandoned, and by establishing an additional point of delivery under the exchange, the West Guymon delivery point.

Applicant states that the total deliveries of Cities Service to Applicant would not exceed 1,500 Mcf per day under the exchange. This arrangement would reduce the deficit balance due Applicant by Cities Service, it is said.

On December 6, 1977, the Commission issued an order consolidating the proceedings in Docket Nos. CP77-565 and G-18545 with the proceedings in Docket No. CP76-462, et al., which relate generally to the ability of Applicant, and Southern Union (which is the parent company of Applicant, a wholly owned subsidiary) to meet the requirements of Southern Union's customers on or near Applicant's East Line, it is stated. Applicant indicates that a hearing was held on March 14, 1978, in which a settlement proposal between Applicant and Cities Service was presented. Applicant states that its amendment basically formalizes the settlement proposal submitted on March 14, 1978, the principal difference being the establishment of the West Guymon Delivery Point.

Applicant states that it has requested a hearing date of September 11, 1978, for the reception of evidence in support of its amendment.

Any person desiring to be heard or to make any protest with reference to said amendment should, on or before October 10, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. Persons who have heretofore filed need not file again.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26780 Filed 9-25-78; 8:45 am]

[6740-02]

[Docket No. ER78-598]

WISCONSIN PUBLIC SERVICE CORP.

Filing of Proposed Initial Rate Schedule

SEPTEMBER 14, 1978.

Take notice that Wisconsin Public Service Corp. (Company) on September 5, 1978, tendered for filing a proposed initial Primary Resale Service Agreement, dated August 23, 1978, with the city of Wisconsin Rapids, Wood County, Wis. The Company states that the Agreement provides for wholesale electric service to be furnished by it to the city of Wisconsin Rapids under the Company's standard W-1 form of tariff for Primary Resale Service.

An estimate of quantities of service and revenues during the 12 months immediately following the month in which this service is expected to commence, was submitted with the filing.

The Company states that there are no customers receiving service under a similar schedule except those now being served under the Company's standard W-1 form of tariff.

The Company proposes an effective date of September 1, 1978, and therefore requests waiver of the Commission's notice requirements.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 22, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-26779 Filed 9-25-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. SEPA 78-1, Supplement No. 2]

LAUREL PROJECT, SOUTHEASTERN POWER ADMINISTRATION

Order Extending Confirmation and Approval of Short-Term Power Rates

Notice is hereby given that the Assistant Administrator for Utility Systems, Economic Regulatory Administration, has issued the order published below extending through September 30, 1978, confirmation and approval of short-term power rates for the Laurel project, Southeastern Power Administration.

Pursuant to section 301(b) of the Department of Energy Organization Act (the Act), 42 U.S.C. § 7101 et seq., the function to confirm and approve rates in accordance with section 5 of the Flood Control Act of 1944, 16 U.S.C. § 825s, for power marketed by the Southeastern Power Administration was transferred to and vested in the Secretary of Energy. By delegation order No. 0204-4, effective October 1, 1977, 42 FR 60725-7 (Nov. 29, 1977), the Secretary of Energy delegated confirmation and approval authority to the Administrator of the Economic Regulatory Administration (ERA or Administrator). The Administrator has delegated this authority to the Assistant Administrator for Utility Systems, Economic Regulatory Administration.

BACKGROUND

The Laurel project began commercial operation as a hydroelectric generating facility on October 25, 1977.

It was Southeastern Power Administration's (SEPA) original intention to sell one-half of the project output to East Kentucky Power Cooperative, Inc. (East Kentucky) and to sell the other half to eight municipal customers in Kentucky. The power sold to these municipal customers was to be transmitted through the facilities of East Kentucky and Kentucky Utilities Co. (Kentucky Utilities). However, SEPA and Kentucky Utilities were unable to complete a contract for the transmission of this power to the eight municipal customers. Therefore, SEPA entered into a contract (contract No. 89-00-1501-564) for the sale of the entire output from the Laurel project to East Kentucky for the period beginning November 1, 1977, and ending January 31, 1978, at the following rate:

$56,000 per calender month for capacity, plus 10.0 mills per kilowatt hour for energy declared and made available.

The schedule of rates and charges in the SEPA contract were to apply to the period during which negotiations between SEPA and Kentucky Utilities for the transmission of power to the municipal customers were to be concluded. The contract was extended on January 26, 1978, for an additional 3-month period through April 30, 1978.

The Assistant Secretary for Resource Applications (RA or Assistant Secretary), on behalf of SEPA, requested the Administrator of ERA to confirm and approve the short-term rates of the Laurel project through April 30, 1978. On April 21, 1978, the Administrator of ERA, after notice and comment, issued an order confirming and approving the short-time rates contained in the contract through April 30, 1978, 43 FR 17857 (Apr. 26, 1978).

On May 9, 1978, the Assistant Secretary, on behalf of SEPA, requested the Administrator of ERA to extend confirmation and approval of the existing short-term rates of the Laurel project through September 30, 1978, since the transmission arrangements with Kentucky Utilities had not been completed.

DISCUSSION

On June 9, 1978, ERA issued a notice conditionally extending confirmation and approval of the Laurel project rates through September 30, 1978, and announced the Administrator's intention to exercise final confirmation and approval authority with respect to the requested extension, 43 FR 25856 (June 15, 1978). Interested persons were afforded the opportunity to file written comments on the proposal and to request a public hearing. No requests for a public hearing were filed. The cities of Barbourville, Corbin, and Falmouth, Ky. and the Frankfort Electric and Water Plant Board (Kentucky Municipals), four of the eight potential municipal customers, filed joint written comments on July 18, 1978, in response to the notice. On August 21, 1978, East Kentucky filed written comments in response to the written comments of the Kentucky Municipals. No other interested persons filed written comments.

The Kentucky Municipals request that ERA's approval of the short-term rates be conditioned upon the establishment of a banking or payback provision that would permit the Kentucky Municipals to withdraw, at a mutually agreeable time upon completion of transmission arrangements with Kentucky Utilities, up to one-half of the 70 MW of Laurel project power that is currently being sold to East Kentucky. The Kentucky Municipals maintain that the public interest requires that they be allowed "to take back the energy which would have been theirs, but for the failure of SEPA to negotiate satisfactory transmission services and the unwillingness of (Kentucky Utilities) to conclude a satisfactory transmission agreement." East Kentucky states, in response to the request of the Kentucky Municipals, that such a banking arrangement would place "unreasonable and unconscionable burdens" on its power system and it requests that ERA not condition the approval of the short-term rates on the establishment of a banking arrangement.

Section 5 of the Flood Control Act of 1944, 16 U.S.C. § 825s requires that preference in the sale of power and energy from certain federally owned generating projects be given to public bodies and cooperatives. Under this provision, public bodies and cooperatives are entitled to be given a preference over private entities. The Flood Control Act does not specifically address the issue of allocation between all potential preference customers. It is the responsibility of SEPA and the Assistant Secretary to make the necessary arrangements for the marketing of power and energy generated at the Laurel project in accordance with the Flood Control Act.

As stated above, SEPA and the Assistant Secretary have not completed making arrangements for the marketing of Laurel project power and have not proposed long-term power rates for review by ERA. The Assistant Secretary has requested only that ERA approve an extension of short-term contract rates. SEPA's marketing policies for the Laurel project are not an issue in this proceeding. Such policies, assuming they are relevant to a determination of an appropriate schedule of rates and charges for power sold by the Laurel project, would only be ripe for review by ERA at such time as SEPA and the Assistant Secretary propose long-term power rates. Therefore, ERA has not conditioned confirmation and approval of the existing short-term rates on the establishment of a banking or payback provision as requested by the Kentucky Municipals.

ERA concludes that it is appropriate to exercise final confirmation and approval authority with respect to the requested extension of the short-term rates for power sold to East Kentucky from the Laurel project through September 30, 1978.

ORDER

Pursuant to the delegation of authority set forth above, the Assistant Administrator for Utility Systems, Economic Regulatory Administration, orders:

1. Confirmation of the short-term rates for the sale of power and energy generated at the Laurel project, Southeastern Power Administration, to the East Kentucky Power Cooperative, Inc., as conditionally extended by the Economic Regulatory Administration on May 9, 1978, is hereby approved for a period ending September 30, 1978; and

2. The Assistant Secretary for Resource Applications shall cause a copy of this order to be distributed to all appropriate parties on the service list.

Issued in Washington, D.C., this 20th day of September 1978.

DOUGLAS C. BAUER,
Assistant Administrator for Utility Systems, Economic Regulatory Administration, Department of Energy.

[FR Doc. 78-26981 Filed 9-25-78; 8:45 am]

[3128-01]

Office of Intergovernmental and Institutional Relations

ENVIRONMENTAL ADVISORY COMMITTEE

Renewal

This notice is published in accordance with the provisions of section 7 of the Office of Management and Budget Circular A-63, as amended. Pursuant to section 14(a)(2)(A) of the Federal Advisory Committee Act and following consultation with the Committee Management Secretariat, General Services Administration, notice is hereby given that the Environmental Advisory Committee has been renewed for a 24-month period ending on September 30, 1980.

The renewal of this Committee has been determined necessary and in the public interest. The Committee will operate in accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92-463), the Department of Energy Organization Act (Pub. L. 95-91) OMB Circular No. A-63 (revised), and other directives and instructions issued in implementation of those Acts.

Further information regarding this Committee may be obtained from the Department of Energy Advisory Committee Management Office, 202-252-5877.

Issued at Washington, D.C., on September 21, 1978.

WILLIAM P. DAVIS,
Deputy Director of Administration.

[FR Doc. 78-26982 Filed 9-26-78; 8:45 am]

[3128-01]

FUEL OIL MARKETING ADVISORY COMMITTEE

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub.

L. 92-463, 86 Stat. 770), notice is hereby given that the Fuel Oil Marketing Advisory Committee and Ad Hoc Subcommittee will meet Monday, October 23, and Tuesday, October 24, 1978, in the California Room of the Sheraton Palace Hotel, 639 Market Street, San Francisco, Calif.

The Committee was established to provide the Secretary of Energy with expert and technical advice concerning the marketing of fuel oil as it relates to the development and implementation of policies and programs by the Department of Energy.

The agenda for the meetings is as follows:

MONDAY, OCTOBER 23, 1978

Ad Hoc Subcommittee—California Room
9:00-1:00 Preparation of Recommendations for Full Committee
Full Committee—California Room
2:00-5:00
Agenda:
Old Business
Report of the Ad Hoc Subcommittee

TUESDAY, OCTOBER 24, 1978

Full Committee—California Room
9:00-5:00
Agenda:
Report on the Middle Distillate Evidentiary Hearing
Responsibility of the Committee Concerning Residual Fuel Oil
Status of Residential Conservation Program Regulations
New Business
Remarks from Floor (10 Minute Rule)

The meetings are open to the public. The Chairman of the Committee or subcommittee is empowered to conduct the meetings in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee or subcommittee will be permitted to do so, either before or after the meetings. Members of the public who wish to make oral statements should inform Georgia Hildreth, Director, Advisory Committee Management, 202-252-5877, at least 5 days prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Transcripts of the meetings will be available for public review at the Freedom of Information Public Reading Room, Room 2107, DOE, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4.30 p.m., Monday through Friday, except Federal holidays. Any person may purchase a copy of the transcripts from the reporter.

Issued at Washington, D.C., on September 21, 1978.

WILLIAM P. DAVIS,
Deputy Director of Administration.

[FR Doc. 78-26983 Filed 9-25-78; 8:45 am]

[6740-02]

[Docket No. RP77-117]

CARNEGIE NATURAL GAS CO.

Certification of Proposed Settlement Agreement

SEPTEMBER 19, 1978.

Take notice that on September 5, 1978, Administrative Law Judge Grossman certified to the Commission a stipulation and agreement proposed in settlement of the issues in the above-captioned rate proceeding. The certification states that the proposed stipulation and agreement, which was filed by joint motion on August 30, 1978, is not opposed by any party. The certification also included the official stenographers report of the settlement conference held on December 1, 1977, and the proposed stipulation and settlement agreement, dated August 30, 1978, which had been filed in the subject docket and admitted into evidence. If approved, the proposed stipulation and agreement would resolve all of the issues in this proceeding.

Any person desiring to be heard or to protest said stipulation and agreement should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before October 24, 1978. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27022 Filed 9-25-78 8:45 am]

[6740-02]

[Docket No. CP78-67]

COLUMBIA GAS TRANSMISSION CORP.

Petition To Amend

SEPTEMBER 18, 1978.

Take notice that on September 5, 1978, Columbia Gas Transmission Corp. (Columbia), 1700 MacCorkle Avenue SE., Charleston, W. Va. 25314, filed on docket No. CP78-67, a petition to amend the Commission's order of May 3, 1978, pursuant to section 7 of the Natural Gas Act so as to authorize the construction and operation of certain pipeline facilities varying in length, size, and location from those originally certificated, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection. The order of May 3, 1978, authorized Columbia to construct and operate certain proposed facilities and to abandon other facilities.

Specifically, Columbia has determined that due to a peak day deliverability problem project No. 10, authorized in the subject docket, should be revised and designated as project No. 10R which is described as follows:

10R The construction and operation of approximately 0.4 mile of 3-inch and 2.1 miles of 4-inch transmission pipeline replacing 2.3 miles of 4- and 8-inch pipeline located in Wayne County, Ohio.

Columbia asserts that the change from the original project No. 10 proposal is needed for the following reasons:

(1) The 3- and 4-inch pipe, rather than the 2- and 3-inch pipe of the original proposal, is required to meet the unexpectedly high demand of the communities of Reedsburg and Jefferson, Ohio, experienced by Columbia in the winter of 1977-78;

(2) Route surveys show that the length of the pipeline in the western section of the project had been underestimated by approximately 0.5 mile;

(3) That a relocation of the pipeline on the eastern section of the project was desirable and would require an additional 0.2 mile of 3-inch pipeline.

Columbia further asserts that in order to provide greater assurance of uninterrupted supply for the communities of Rowlesburg and Manheim, W. Va., project No. 30, authorized in the subject docket should be revised and designated project No. 30R which is described as follows:

30R The construction and operation of approximately 2.6 miles of 2-inch and 0.4 mile of 4-inch transmission pipeline and appurtenant measuring and regulating facilities, and the abandonment of approximately 3 miles of 6-inch pipeline located in Preston County, W. Va.

Columbia asserts that the change from the original project No. 30 proposal is required since it has determined that the location of the connection proposed in the project created a potential for supply problems during the winter period in that the area is subject to heavy snow falls and could become inaccessible and in that there is a potential for storage line freezes.

The estimated cost of project No. 10R is $100,000, and of project No. 30R is $283,000, including the Commission's filing fees and would be financed through funds generated internally, it is asserted.

Any person desiring to be heard or to make any protest with reference to said petition should on or before October 10, 1978, file with the Federal

Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act, as amended (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27023 Filed 9-25-78; 8:45 am]

[6740-02]

[Docket No. ER76-887]

DAYTON POWER & LIGHT CO.

Refund Report

SEPTEMBER 19, 1978.

Take notice that Dayton Power & Light Co. on September 11, 1978, tendered for filing in compliance with the Commission's letter of August 11, 1978, a report of refunds to its 14 municipal wholesale customers on Septerber 7, 1978. The refund report consists of four schedules: Schedule A—summary of refunds made, schedule B—billing determinants and revenues for prior rates, schedule C—billing determinants and revenues on present and settlement rates, schedule D—determination of refund and interest applicable for each customer.

The company indicates that each appropriate official of the 14 municipals affected, in addition to a refund check, has been provided a copy of their particular refund report.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such protests should be filed on or before October 16, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary

[FR Doc. 78-27024 Filed 9-25-78; 8:45 am]

[6740-02]

[Docket No. ER78-415]

DUKE POWER CO.

Motion Granting Extension of Time

SEPTEMBER 19, 1978.

On August 24, 1978, Commission staff counsel filed a motion to extend until October 13, 1978, the time for filing top sheets in the above captioned proceeding in compliance with the Commission order of June 30, 1978. The motion stated that all parties agree to the requested extension.

Upon consideration, notice is hereby given that the date for filing top sheets in this proceeding is extended to and including October 13, 1978.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27025 Filed 9-25-78 8:45 am]

[6740-02]

[Docket No. CP74-35]

EXXON PIPELINE CO. OF CALIFORNIA

Informal Conference

SEPTEMBER 19, 1978.

Take notice that on October 10, 1978, at 10 a.m., an informal conference will be convened with the applicant, intervenors, Commission staff, and other interested persons, to discuss status of the construction and operation of facilities, and related matters, in the above-entitled proceeding. The conference will be held in a room whose number will be posted on the second floor hearing calendar at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street N.E., Washington, D.C.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27026 Filed 9-25-78; 8:45 am]

[6740-02]

[Docket No. RP73-66, PGA78-1]

INTER-CITY MINNESOTA PIPELINES LTD., INC.

Proposed Rate Change Pursuant to Purchased Gas Cost Adjustment Provisions

SEPTEMBER 18, 1978.

Take notice that Inter-City Minnesota Pipelines Ltd., Inc. on September 1, 1978, tendered for filing Tenth Revised Sheet No. 4 to its FERC gas tariff, Original Volume No. 1, proposed to be effective November 1, 1978.

Minnesota Pipelines states that this filing is the annual filing for the contract year ending October 31, 1978, and reflects the rates which Minnesota Pipelines is required to pay its supplier ICG Transmission Ltd.

Minnesota Pipelines also states that copies of this filing have been served upon all its customers.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before September 29, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants party to the proceeding. Any person wishing to become a party must file a petition to intervene Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27027 Filed 9-25-78; 8:45 am]

[6740-02]

[Docket No. ER78-467]

IOWA POWER & LIGHT CO.

Order Accepting for Filing and Suspending Proposed Rate Schedules, Waiving Notice Requirements, Providing for Hearing, Establishing Procedures, and Allowing Interventions

SEPTEMBER 14, 1978.

On August 9, 1978,[1] Iowa Power & Light Co. (I.P. & L.) submitted for filing a proposed rate increase for wholesale service to the cities of Carlisle and Neola, Iowa (Cities). Such increase would result in increased revenues of $102,701[2] based on a 12-month period ending December 31, 1979. I.P. & L. proposes an effective date of September 15, 1978, but requests that the rate schedule be suspended until January 1, 1979. I.P. & L. requests waiver of that portion of section 35.13 of the regulations which requires that period II (calendar year 1979) data be submitted for a period beginning no later than the date the rates are proposed to become effective.

Notice of the filing was issued on July 6, 1978, with comments, protests, or petitions to intervene due on or before July 14, 1978.

On July 14, 1978, petitions for leave to intervene were timely filed by the cities of Carlisle and Neola, Iowa. In its petition, the city of Carlisle requests an opportunity to supplement

[1] I.P. & L. initially submitted the filing on June 30, 1978, but was informed by Commission letter of July 25, 1978, that its submittal was deficient with respect to certain cost of service data.

[2] See attachment A for rate schedule designations.

their pleading due to lack of notice. While notice was issued on July 6, 1978, petitioner indicates that its counsel did not receive actual notice until the afternoon of July 13, 1978, the day before the end of the comment period. Under section 35.1(a) and 35.2(d) of our regulations I.P. & L. is required to mail a copy of a proposed rate schedule to each affected purchaser on the day the filing is tendered here. Thus Carlisle should have had actual notice shortly after the filing was first tendered. However, we note that section 1.11(a) of our regulations permits Carlisle to amend its pleadings, and no special permission is required in this order. The city of Carlisle also moved to reject the tendered filing in part. This motion pertains to the working capital allowance submitteed by I.P. & L. with respect to rate for demand charges. In support of this motion, Carlisle cites the initial decisions in *Carolina Power & Light Company* [3] and *Southern California Edison Co.* [4] for the proposition that the 45-day rule has been disallowed. In opinion No. 19,[5] this Commission, while recognizing the need for reexamination of the 45-day rule, allowed the rule to stand pending further review. Therefore, the city of Carlisle's motion to reject shall be denied.

The remaining issues raised by Carlisle are matters that should be raised at hearing and will not be dealt with here.

In its petition, the city of Neola also claims lack of notice, indicating that they were not apprised of I.P. & L.'s tendered filing until the last day of the comment period, July 14, 1978. In view of this, the city of Neola requests the Commission to expressly recognize the city's reservation of its right to raise issues or move to reject following completion of its analysis of the company's rate increase application. Like Carlisle, Neola is free to avail itself of the sections of our regulations permitting amendment of pleadings subsequent to the issuance of a suspension order. We shall not, however, reach the question of the city's request to reserve the right to move for rejection of the filing at a later date. We would merely note that the city as a party in this docket is free to file any motion it deems appropriate during the pendency of the proceeding.

I.P. & L.'s request for waiver of our regulations requiring that the first day of period II be no later than the first day on which the rates are proposed to be effective is denied.

I.P. & L.'s period I data does not support the proposed increase. In fact, the primary cost support for the proposed increase, as reflected in the period II data, is the addition of a new generating plant as of January 1, 1979. In effect, I.P. & L.'s request would deny the Commission the exercise of its suspension powers during the period (after January 1, 1979) that I.P. & L. claims the proposed rate would be cost-justified. Instead, we will grant I.P. & L. a waiver of our 90-day notice requirements, so that I.P. & L. need not refile its cost support and accept the proposed rate schedule for filing as of January 1, 1979.

Our review of the filing indicates that the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential or otherwise unlawful. We therefore will suspend the proposed rates and charges for 1 month and permit them to become effective subject to refund on February 1, 1979, pursuant to section 205(e) of the Federal Power Act.

The Commission finds that participation of the intervenors in this proceeding may be in the public interest.

The Commission orders:

(A) The city of Carlisle's motion to reject is hereby denied.

(B) The requirements of section 35.3(a) of the Commission's regulations with respect to instant filing are hereby waived and the proposed increased rates and charges are accepted for filing as of January 1, 1979, suspended, and the use thereof deferred until February 1, 1979, when they shall become effective subject to refund.

(C) The petitioners, the cities of Carlisle and Neola, Iowa, are hereby permitted to intervene in this proceeding subject to the rules and regulations of the Commission; *Provided, however,* That participation by such intervenors shall be limited to the matters set forth in their petitions to intervene; *Provided further,* That the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(D) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the DOE Act and by the Federal Power Act and pursuant to the Commission's rules of practice and procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of the rates proposed by Iowa Power & Light Co.

(E) The staff shall serve top sheets in this proceeding on or before January 15, 1979.

(F) A presiding administrative law judge to be designated by the Chief Administrative Law Judge for that purpose, shall convene a conference in this proceeding to be held within ten (10) days of the serving of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. Said law judge is authorized to establish procedural dates and to rule upon all motions (except motions to consolidate and sever and motions to dismiss), as provided for in the Commission's rules of practice and procedure.

(H) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

ATTACHMENT A

City of Carlisle, supplement No. 7 to rate schedule FPC No. 9 (supersedes supplement No.6)

City of Neola, supplement No. 7 to rate schedule FPC No. 13 (supersedes supplement No. 6).

[FR Doc. 78-27028 Filed 9-25-78; 8:45 am]

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[3] Docket No. ER76-495 (phase II), issued Sept. 7, 1977.

[4] Docket No. ER76-205, issued June 1, 1978.

[5] *Carolina Power & Light Company,* opinion No. 19, issued Aug. 2, 1978.

[6740-02]

[Docket No. RP78-61]

MOUNTAIN FUEL RESOURCES, INC.

Granting Extension of Time and Postponement of Settlement Conference

SEPTEMBER 19, 1978.

On September 7, 1978, Commission staff counsel filed a motion to extend the time for filing top sheets in the above-captioned proceeding pursuant to the Commission's order of June 15, 1978. The motion states that staff counsel has contacted Mountain Fuel Resources, Inc. (MFR), and that MFR does not object to the extension. The motion further stated a joint request by staff counsel and MFR that the settlement conference in this proceeding be postponed.

Upon consideration, notice is hereby given that a limited extension of time is granted to and including October 2, 1978, for filing top sheets. Postponement of the settlement conference also is granted until October 26, 1978.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27029 Filed 9-25-78 8:45 am]

[6740-02]

[Docket No. E-9181]

NANTAHALA POWER & LIGHT CO.

Notice of Filing

SEPTEMBER 19, 1978

Take notice that Nantahala Power & Light Co. on August 21, 1978, pursuant to ordering paragraph (B) of the Commission's order granting rehearing, modifying prior order determining refunds and terminating proceeding, issued July 20, 1978, tendered for filing documentation in support of the amounts which would have been collected by Nantahala under a fuel clause during the period that the rates in docket E-9181 were in effect.

Nantahala indicates that the calculations submitted herein utilize the actual TVA fuel related charges for January 1975 as a base.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with section 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such protests should be filed on or before October 4, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27030 Filed 9-25-78; 8:45 am]

[6740-02]

[Docket No. E-9181]

Granting Extension of Time

SEPTEMBER 20, 1978.

On September 13, 1978, Counsel for Nantahala Power & Light Co. filed a motion for extension of time until September 29, 1978 to respond to the Town of Highlands, North Carolina's (Highlands) "Protest of Alleged Documentation of Nantahala Fuel Adjustment revenues, Motion to Reject and Strike, Motion for Reconsideration Regarding Reopening of the Record, and Motion to Require Adequate Refunds," filed August 31, 1978. The motion states that Highland's protest was not received by Nantahala's counsel until September 8, 1978, and that the technical questions raised by Highlands will require extensive research prior to response. Nantahala states that the other parties do not oppose this request.

Upon consideration, notice is hereby given that an extension of time is granted to and including September 29, 1978, during which Nantahala may respond to Highland's August 31, 1978 protest.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27031 Filed 9-25-78; 8:45 am]

[6740-02]

[Docket No. RP73-36 (PGA78-3) (DCA78-2)]

PANHANDLE EASTERN PIPE LINE CO.

Granting Extending of Time

SEPTEMBER 20, 1978.

On September 11, 1978, Commission Staff Counsel filed a motion for extension of time to file staff's statement of position in the above captioned proceeding until November 2, 1978, to comply with the Commission order issued July 31, 1978. The motion states that the extension is required to allow Panhandle to reply to Staff interrogatories and for Staff to review said reply.

Upon consideration, notice is hereby given that an extension of time is granted to and including November 2, 1978 for filing the statement of position in this proceeding.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27032 Filed 9-25-78; 8:45 am]

[6740-02]

[Docket No. RP78-62]

PANHANDLE EASTERN PIPE LINE CO.

Granting Extension of Service Date

SEPTEMBER 19, 1978.

On September 8, 1978, Commission Staff Counsel filed a motion requesting an extension of time for providing service of top sheets in the above captioned proceeding pursuant to the Commission's order issued May 31, 1978. The motion states that Staff Counsel has contacted counsel for Panhandle who stated that Panhandle will not oppose this request.

Upon consideration, notice is hereby given that an extension of time is granted to and including November 1, 1978, for filing top sheets in compliance with the May 31, 1978 order.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27033 Filed 9-25-78 8:45 am]

[6740-02]

[Docket Nos. CP68-146, CP67-22, CI68-621]

TENNESSEE GAS PIPELINE CO., A DIVISION OF TENNECO, INC. AND TENNECO OIL CO.

Granting Extension of Time

SEPTEMBER 19, 1978.

On July 24, 1978, Tennessee Gas Pipeline Co., a Division of Tenneco, Inc. (Tennessee) and Tenneco Oil Co. (Tenneco) filed a joint motion for extension of time for filing a production cost report as prescribed in Commission order dated July 30, 1969, (42 FPC 292) and amended by Commission order dated November 26, 1974 (52 FPC 1457). The motion states that because of modifications and complexities of recent FERC forms and heavy workload demands on Tenneco personnel it will be impossible for Tennessee and Tenneco to meet the ordered deadline for filing their annual production cost report (PCR) for the year 1977.

Upon consideration, notice is hereby given that the date by which Tennessee and Tenneco shall file their production cost report for the year 1977 is extended to and including October 1, 1978.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27034 Filed 9-25-78; 8:45 am]

[6740-02]

[Docket Nos. RP75-30, RP74-20, and RP74-83]

UNITED GAS PIPELINE CO.

Granting Extension of Time

SEPTEMBER 19, 1978.

On September 1, 1978, United Gas Pipeline Co. (United) filed a request for clarification or, in the alternative, for a delay in the effectiveness of ordering paragraphs (B) and (C) of Commission opinion No. 16, issued June 3, 1978, in the above captioned proceeding. The request stated that since the Commission granted rehearing for purposes of further consideration on August 29, 1978, United should not be required to file revised tariff sheets reflecting modifications in its rates nor to make refunds to its ratepayers as prescribed by ordering paragraphs (B) and (C) of opinion No. 16 until the Commission issues its order on the merits of the rehearing application.

Upon consideration, notice is hereby given that an extension is granted to and including October 30, 1978, for United to comply with ordering paragraphs (B) and (C) of opinion No. 16.

KENNETH F. PLUMB,
Secretary,

[FR Doc. 78-27020 Filed 9-25-78; 8:45 am]

[6740-02]

[Docket No. RP78-68]

UNITED GAS PIPE LINE CO.

Granting Extension of Time

SEPTEMBER 19, 1978.

On September 8, 1978, Commission Staff Counsel filed a motion requesting an extension of time within which to file top sheets in the above captioned procedure pursuant to the Commission's order issued June 30, 1978. The motion states that United and Staff require additional time to resolve complexities involved in securing the required data for the top sheets.

Upon consideration, notice is hereby given that an extension of time is granted to and including November 9, 1978, for filing top sheets in compliance with the June 30, 1978, order.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-27021 Filed 9-25-78; 8:45 am]

[6820-38]

GENERAL SERVICES ADMINISTRATION

[Intervention Notice 73; Docket No. ER-78-252]

MISSOURI PUBLIC SERVICE COMMISSION AND KANSAS CITY POWER & LIGHT CO.

General Rate Increase Proceeding

The Administrator of General Services seeks to intervene in a proceeding before the Missouri Public Service Commission ER-78-252 involving an application of Kansas City Power & Light Co. for an increase in rates changed for electric service. The Administrator of General Services represents the interests of the executive agencies of the U.S. Government as users of utility services.

Persons desiring to make inquiries of GSA concerning this case should submit them, in writing, to Mr. Spence W. Perry, Assistant General Counsel, Regulatory Law Division, General Services Administration, 18th and F Streets NW., Washington, D.C. 20405, telephone 202-566-0726, on or before October 26, 1978, and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any persons parties of record in the proceeding.

(Section 201(a)(4), Federal Property and Administrative Services Act, 40 U.S.C. 481(a)(4).)

Dated: September 6, 1978.

JAY SOLOMON,
Administrator of General Services.

[FR Doc. 78-26940 Filed 9-25-78; 8:45 am]

[6820-38]

[Federal Property Management Regs., Temporary Reg. F-470]

SECRETARY OF DEFENSE

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to represent the interests of the executive agencies of the Federal Government in an electric rate proceeding.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the New Mexico Public Service Commission involving the application of the El Paso Electric Co. for a general increase in rate charges for electric service.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

JAY SOLOMON,
Administrator of General Services.

SEPTEMBER 12, 1978.

[FR Doc. 78-26942 Filed 9-25-78; 8:45 am]

[6820-38]

[Federal Procurement Management Regs.; Temporary Reg. F-471]

SECRETARY OF DEFENSE

Delegation of Authority

Subject: Delegation of authority.

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to represent the interests of the executive agencies of the Federal Government in an electric rate proceeding.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the Public Utility Commission of Texas involving the application of the El Paso Electric Co. for a general increase in rates charged for electric service.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

September 12, 1978.

JAY SOLOMON,
Administrator of General Services.

[FR Doc. 78-26941 Filed 9-2-78; 8:45 am]

[4110-86]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Center for Disease Control

FINAL REPORT OF CENTER FOR DISEASE CONTROL PROGRAMS AND POLICIES ADVISORY COMMITTEE (AD HOC)

Availability of Filing

Notice is hereby given that, pursuant to section 13 of Pub. L. 92-463 (5 U.S.C. Appendix I), the final report of the Center for Disease Control Programs and Policies Advisory Committee (ad hoc) has been filed with the Library of Congress.

Copies are available to the public for inspection at the Library of Congress, Special Forms Reading Room, Main Building, and on weekdays between 9 a.m. and 4:30 p.m. at the Department of Health, Education, and Welfare, Department Library, HEW North Building, Room 1436, 330 Independence Avenue SW., Washington, D.C. 20201, telephone 202-245-6791.

Dated: September 19, 1978.

WILLIAM H. FOEGE, M.D.,
Director,
Center for Disease Control.

[FR Doc. 78-26988 Filed 9-25-78; 8:45 pm]

[4110-03]

Food and Drug Administration

[Docket No. 78P-0268]

CALBIOCHEM-BEHRING CORP.

Petition for Reclassification

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice invites interested persons to submit information, data, and views on a petition for reclassification of a medical device from class III (premarket approval) to class II (performance standards). The petition was submitted by Calbiochem-Behring Corp. for a serum alcohol control. Material submitted will be forwarded to members of the Clinical Toxicology Device Classification Panel, who will make a recommendation on the petition to the Food and Drug Administration (FDA).

DATE: Information, data, and views should be submitted by October 26, 1978.

ADDRESSES: Copies of the petition are available at the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857. Information, data, and views should be submitted (preferably five copies) to S. K. Vadlamudi, Executive Secretary, Clinical Toxicology Device Classification Panel (address given below).

FOR FURTHER INFORMATION CONTACT:

S. K. Vadlamudi, Bureau of Medical Devices (HFK-440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Avenue, Silver Spring, Md. 20910, 301-427-7234.

SUPPLEMENTARY INFORMATION: On August 18, 1977, Calbiochem-Behring Corp., San Diego, Calif. 92112, submitted under section 510(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(k)), a premarket notification of its intent to market an ethanol control used to determine whether an instrument designed to measure the ethanol content in serum is properly performing. The device utilizes the enzyme trypsin to separate the ethyl ester form the *N*-α-benzoyl-L-arginine ethyl ester to produce ethanol in the serum. The manufacturer calls the device "Serum Alcohol Control." This device was determined by the agency to be not substantially equivalent to any device that was in commercial distribution before May 28, 1976, and is therefore classified into class III (premarket approval) under section 513(f) of the act (21 U.S.C. 360c(f)). On May 4, 1978, Calbiochem-Behring Corp. submitted, under section 513(f)(2) of the act, a reclassification petition for the device.

Under section 515(a)(2) of the act (21 U.S.C. 360e(a)(2)), before a device that is in class III under section 513(f)(1) of the act can be marketed, it must either be reclassified under section 513(f)(2) of the act or have an approval of an application for premarket approval under section 515 of the act, unless there is in effect for the device an investigational device exemption under section 520(g) of the act (21 U.S.C. 360j(g)).

The agency reviewed the petition and determined that it was deficient. On July 10, 1978, the manufacturer submitted additional information to complete the petition.

Section 513(f) of the act requires the Commissioner of Food and Drugs to submit the petition to a device classification panel for a recommendation concerning classification. The Panel is required to make its recommendation to the Commissioner within 90 days after the petition is referred to the Panel. Ordinarily, the petition would be discussed at an open panel meeting before the Panel makes its recommendation. However, a meeting of the Clinical Toxicology Device Classification Panel could not be scheduled so as to enable the Panel to make its recommendation within the required 90-day period. Therefore, this petition has been mailed to the voting members of the Panel for their review and recommendation to FDA. The Panel will make its recommendation to FDA by mail.

Section 513(f) of the act also requires the Commissioner to provide an opportunity for interested persons to provide information, data, and views to the Panel before it makes its recommendation. Information, data, and views will be mailed to the Panel members for their consideration before they make their recommendation. Then each voting member will send the Executive Secretary of the Panel a completed supplemental data sheet and a complete classification questionnaire applicable to the device for which a recommendation is sought. The Panel recommendation will be published in the FEDERAL REGISTER. A period for public comment will follow, and then the Commissioner will issue a final regulation approving or denying the petition no more than 210 days after the submission of an adequate petition.

Dated: September 20, 1978.

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

[FR Doc. 78-26944 Filed 9-25-78; 8:45 am]

[4110-03]

Food and Drug Administration

[Docket No. 78D-0241]

CANNED PINEAPPLE AND PINEAPPLE JUICE

Availability of Guideline

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces the availability of a revised administrative guideline establishing a new defect action level for pineapple juice and revising the defect action level for canned pineapple.

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

FOR FURTHER INFORMATION CONTACT:

Howard N. Pippin, Bureau of Foods (HFF-312), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-245-3092.

SUPPLEMENTARY INFORMATION: Administrative guidelines developed by the FDA set forth regulatory policies which are used as a basis for legal actions. The food defect action levels established in administrative guidelines by FDA represent the levels of natural or unavoidable defects permitted in foods produced under good manufacturing practices. These action levels may be revised as necessary to reflect technological advances or changes in problems related to specific commodities.

An updated administrative guideline has been issued establishing the following revised action levels for mold in pineapple products:

1. Pineapple, canned—actionable if the average Howard mold count for six or more subsamples exceeds 20 percent or if the Howard mold count for any one subsample exceeds 60 percent.

2. Pineapple juice—actionable if the average Howard mold count for 6 or more subsamples exceeds 15 percent or if the Howard mold count for any one subsample exceeds 40 percent.

A copy of this guideline is available for public examination between 9 a.m. and 4 p.m., Monday through Friday, in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857. Requests for single copies of the guideline may be made in writing to that office.

Interested persons may submit written comments on the guideline to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857. (Preferably four copies and identified with the Hearing Clerk docket number found in brackets in the heading of this document). Received comments will be incorporated into the public file on the guideline and may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday, except holidays.

Dated: September 18, 1978.

JOSEPH P. HILE,
Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-26721 Filed 9-25-78; 8:45 am]

[4110-03]

[Docket No. 78P-0155]

HELENA LABORATORIES

Panel Recommendation on Petition for Reclassification

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The agency is publishing for public comment the recommendation of the Clinical Chemistry and Hematology Device Classification Panel that the Glycosylated (Fast Fraction) Hemoglobin Quick Column Methodology be reclassified from class III (premarket approval) into class II (performance standards). This recommendation was made after review of a reclassification petition filed by Helena Laboratories, Beaumont, Tex. 77704. After reviewing the Panel recommendation and any public comments received, the agency will approve or deny the reclassification by order in the form of a letter to the petitioner. The agency's decision on this reclassification petition will be announced in the FEDERAL REGISTER.

DATE: Comments by October 26, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Kaiser Aziz, Bureau of Medical Devices (HFK-440), Food and Drug Administration, 8757 Georgia Avenue, Silver Spring, Md. 20910, 301-427-7550.

SUPPLEMENTARY INFORMATION: On February 21, 1978, Helena Laboratories, Beaumont, Tex. 77704, submitted to the Food and Drug Administration (FDA) a petition for reclassification under section 513(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360c(f)), for a device that it intended to market for the quantitation of glycosylated or fast fraction hemoglobins. The manufacturer calls this device "The Helena Glycosylated (Fast Fraction) Hemoglobin Quick Column Methodology." The reclassification petition stated that the device is not substantially equivalent to a device that was in commercial distribution before May 28, 1976, nor is the device substantially equivalent to a device that has been placed in commercial distribution since that date and subsequently reclassified. Therefore, the device is classified automatically into class III under section 513(f)(1) of the act.

Under section 515(a)(2) of the act (21 U.S.C. 360e(a)(2)), before a device that is in class III under section 513(f)(1) of the act can be marketed, it must either be reclassified under section 513(f)(2) or have an approval of an application for premarket approval under section 515 of the act, unless there is in effect for the device an investigational device exemption under section 520(g) of the act (21 U.S.C 360j(g)).

The agency reviewed the petition and determined that there was no deficiency that would prevent FDA from making a decision on the petition. However, the agency's review did raise certain questions concerning the scientific data submitted in support of the petition. On May 24, 1978, the manufacturer supplemented the petition by voluntarily submitting additional information in answer to these questions.

Section 513(f)(2) of the act requires FDA to refer a reclassification petition to the appropriate classification panel and to receive a recommendation on whether to approve or deny the petition within 90 days after referral. The act also requires FDA to provide an opportunity for interested persons to submit data and views to the panel. The Food and Drug Administration ordinarily meets the latter requirement by scheduling an open panel meeting on the petition but could not do so in this case, because a meeting of the Clinical Chemistry and Hematology Device Classification Panel could not be scheduled so as to enable the Panel to make its recommendation within the required 90-day period. As a result, FDA obtained the Panel's recommendation by mailing it to voting Panel members. The agency also published in the FEDERAL REGISTER of July 25, 1978 (43 FR 32189), a notice to interested persons to submit data, information, and views for consideration by the Panel. The notice stated that any data, information, and views submitted by August 24, 1978, would be mailed to the Panel members for their consideration before recommendations were made. Certain data, information, and views were submitted and were mailed to the Panel members. The recommendations of the Panel members were received by the agency by August 31, 1978. The Panel recommended that the device be reclassified into class II.

To determine the proper classification of the device, the Panel considered the criteria in section 513(f)(1) of the act.

For the purpose of classification, the Panel assigned to this generic type of device the name "glycosylated (fast fraction) hemoglobin" and described this type of device as a device used to quantitate the sum of the glycosylated (fast fraction) hemoglobins (A_{1a}, A_{1b}, A_{1c}) as part of the assessment of diabetic control. The device is used to determine the proper dosage of insulin for diabetic patients. Inappropriate insulin dosage could result in hyperglycemia or hypoglycemia.

SUMMARY OF REASONS FOR THE RECOMMENDATION

The Panel made the following determinations in support of its recommendation:

1. The device is not an implant, is neither life-sustaining nor life-supporting, and does not present a potential unreasonable risk of illness or injury. The device is of substantial importance in preventing impairment of human health. General controls are not sufficient to provide reasonable assurance of the safety and effectiveness of the device, but sufficient scientific and medical data exist to establish a performance standard to provide such assurance.

2. The safe and effective performance of the device depends upon the user's awareness of limitations on the value of information from the device, as discussed in the "Risks to Health" section of this notice.

SUMMARY OF DATA ON WHICH THE RECOMMENDATION IS BASED

The safety and effectiveness of the device was determined on the basis of data presented on the performance characteristics of the product.

The accuracy of the device was evaluated using fresh whole blood samples from 70 normal adult subjects and 9 diabetic patients known to be insulin-dependent. The glycosylated hemoglobin values for the 70 normal subjects showed a high correlation with the normal ranges cited in the literature. The values for the diabetic subjects were elevated over the normal ranges cited in the literature.

The precision of the methodology was established by studies of within-run reproducibility, run-to-run reproducibility, and lot-to-lot column variability. For the Helena study of within-run reproducibility, samples from 10 normal adults and 10 insulin dependent patients with diabetes mellitus were tested using 10 columns per sample per run. Coefficients of variation ranged from 2.98 to 8.39 percent for the normal samples and 1.66 to 6.06 percent for the samples from the insulin dependent diabetic patients. A clinical laboratory study of within-run reproducibility for 8 normal samples, using 20 columns per sample produced coefficients of variation of 3.9 to 7.7 percent for the normal samples and

from 3.9 to 8.6 percent for the abnormal samples.

The Helena study of run-to-run reproducibility consisted of 10 normal samples and 10 abnormal samples tested at the rate of one sample per column per run for 20 different runs over a 5-day period. All the columns were from a single lot. The coefficients of variation ranged from 9.2 to 14.3 percent for the normal samples and from 4.2 to 6.7 percent for the abnormal samples. A clinical laboratory study of run-to-run reproducibility consisted of 4 normal samples and 7 samples from insulin-dependent diabetic patients run at the rate of one sample per column per run for 20 runs over a 5-day period. The coefficients of variation ranged from 5.7 to 8.6 percent for the normal samples and 4.6 to 9.2 percent for the abnormal samples.

A Helena study of lot-to-lot variability consisted of 10 normal samples and 10 samples from insulin-dependent diabetic patients. Each sample was tested with one column from each of five lots. The coefficients of variation ranged from 2.2 to 12.3 percent for the normal samples and from 1.8 to 8.6 percent for the samples from the diabetic patients.

The specificity of the methodology was evaluated by comparing values achieved with the Helena Quik column to those achieved with individual large columns prepared according to the method described by Trivelli, Ranney, and Lai, in "Hemoglobin Components in Patients With Diabetes Mellitus," New England Journal of Medicine, 284(7):353, 1971. The data showed correlation between the values obtained by the two methodologies.

The sensitivity of the methodology was established in a study in which varying amounts of hemoglobin A_{1c} were tested using Helena Quik columns. The results were linear over the range 1.68 to 31.8 percent, the observed range for glycosylated hemoglobin.

The effects of possible interference factors such as anticoagulants, other hemoglobin types, and sample age were also evaluated. Studies indicated that collection of blood in the presence of the anticoagulant EDTA (ethylenediaminotetraacetate) or in potassium oxalate sodium fluoride tubes produced no significant difference in the values obtained. Studies also indicated that abnormal amounts of hemoglobin F cause erroneous results for determination of glycosylated hemoglobins. Samples of blood held at 5° C for 1 to 5 days gave the same values as freshly collected blood.

Studies of the stability of the final reaction material indicated that the final reactants were stable for 24 hours.

Risks to Health

The Panel noted that the device is of substantial importance in preventing impairment of human health. There is a risk that inaccurate results obtained by the use of the device may lead to misdiagnosis or the improper classification of diabetes. Inaccurate results may occur because of lack of accuracy and precision of the device, the interference of substances such as hemoglobin F, or failure to prepare the column properly or control the conditions of use. Inappropriate insulin dosage given to a diabetic patient on the basis of inaccurate results could lead to hypoglycemia or hyperglycemia.

Additional Findings

The Panel recommended that the device be classified into class II and that a standard be developed directed toward components of the kit such as the pH and characterization of the column resin and the pH of the elution buffers. The Panel recommended that development of this standard be a medium priority. Priority was established in accordance with the relative medical significance of this device in relation to other devices.

The Panel noted that the following warnings and precautions should be specified in the product labeling:

1. The use of this test should be restricted to qualified laboratory personnel.

2. A known normal hemoglobin control should be run with every batch of patient samples.

3. Erroneous high test values can occur for nondiabetic conditions in the presence of increased levels of hemoglobin F.

4. Test results may be affected by variations in the age of the patient's red blood cells.

The petition is on file in the office of the hearing clerk, address noted above.

Dated: September 20, 1978.

William F. Randolph,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-26943 Filed 9-25-78; 8:45 am]

[4110-03]

[Docket No. 76G-0095]

MODIFIED COTTONSEED PRODUCTS INTENDED FOR HUMAN CONSUMPTION

Response to Objections

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice responds to objections raised to a regulation permitting the use of roasted or cooked glandless cottonseed kernels in baked goods, candy, and as a snack food. After a comprehensive review of the data submitted in support of the objections, the Commissioner of Food and Drugs concludes that no action is warranted to amend or rescind the regulation.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: In the Federal Register of May 14, 1976 (41 FR 19933), a regulation was published which amended 21 CFR 121.1019 (21 CFR 172.894 after recodification published in the Federal Register of March 15, 1977 (42 FR 14302)) to permit the use of roasted or cooked glandless cottonseed kernels in baked goods, candy, and as a snack food. The modified cottonseed products listed in § 172.894(a)(1) and (2) have been used for human food for a number of years. There glanded cottonseed products are derived from decorticated, partially defatted, cooked, ground cottonseed kernels, or from decorticated, ground cottonseed kernels extracted with *n*-hexane and have been permitted for human food use as refined cottonseed flour. The extracted refined oil from glanded cottonseeds has also been commonly used as an edible vegetable oil. Because glanded cottonseeds contain the toxic constituent gossypol, the whole kernel of the glanded cottonseed has not previously been used as food in the human diet. However, the recent genetic development of glandless cottonseed varieties containing significantly less pigment and gossypol than previously attainable has resulted in the production of glandless cottonseed that may be used directly for human food. The regulation of May 14, 1976 prescribed safe conditions of use for human consumption of roasted or cooked glandless cottonseeds.

Two objections to this regulation were received. These objections were not accompanied by requests for a hearing or for a stay of the regulation. The objections as well as the Commissioner's responses to them are summarized below.

1. The National Cottonseed Products Association, Inc., objected to both paragraph (d) of the regulation (21 CFR 172.894(d)) and to that portion of the preamble (see 41 FR 19934) that discussed pesticide tolerance requirements for glandless cottonseed. The Association contended that the determination by FDA and the Environ-

mental Protection Agency (EPA) that glandless cottonseed kernels are different from glanded cottonseed and therefore require different pesticide restrictions would adversely affect the production of glandless cottonseed. It was argued that glandless cottonseed for direct human consumption as roasted or baked kernels represents only a small fraction of the glandless cottonseed that is produced, and that this limited direct food use does not justify the costs of re-registering and relabeling pesticides used on the entire commodity. The association stated that it would not object to the regulation if the pesticide restrictions applied only to glandless cottonseed intended for direct human consumption and not to those grown for other uses.

The Commissioner appreciates the concern stated in this objection regarding costs of re-registering and relabeling cottonseed pesticides which are used on the glandless commodity. It is noteworthy, however, that FDA and EPA have shared concern only over the presence of possible unsafe pesticide residues on the glandless commodity grown solely for direct human consumption. Any pesticide registered for use on conventional glanded cotton strains may be used on plantings of the glandless variety which are used solely for fiber and oil processing. On the other hand, only those pesticides specifically cleared on a case-by-case basis by the Registration Division, Office of Pesticides Programs, Environmental Protection Agency, 410 M Street SW., Washington D.C. 20460, may be used on glandless cottonseed grown for direct human consumption. In this regard, EPA has reevaluated the original residue data and toxicology on methyl parathion, trifluralin, Prowl [*n*-(1-ethylpropyl)-3,4-dimethyl-2-6 dinitrobenzenamine], and fluometuron (see 40 CFR Part 180 for tolerances) and has concluded that these four pesticides can be used in accordance with current registered use patterns without hazard to consumers of glandless cottonseed kernels intended for direct human consumption. The basis for selection of these four chemicals was information from the petitioner that adequate pest control could be achieved with these products in the limited areas where the glandless variety is grown for direct food use.

2. The second objection expressed concern that levels of cyclopropenoid fatty acids (CPFA) which may occur naturally in whole glandless cottonseed have not been considered.

The Commissioner was aware of the toxic potential of CPFA when reviewing this petition. Furthermore, analytical data demonstrating the levels of CPFA in whole raw and cooked glandless cottonseed kernels were received and evaluated at that time. Representative data submitted by the petitioner indicated that whole raw glandless cottonseed kernels contained, on the average, 0.36 percent CPFA in the extracted oil. This value decreased, on the average, to 0.13 percent CPFA upon roasting. Reports in the literature reveal that these levels in the raw kernels are approximately the same as levels of CPFA in edible cottonseed oil (0.2 to 0.45 percent). Because roasting significantly reduces the CPFA content of whole glandless cottonseed kernels, the increased intake of CPFA due to the use of the roasted or cooked commodity will be small in comparison to present intakes obtained from consumption of edible cottonseed oil. Therefore, the Commissioner concludes that the restricted uses of glandless cottonseed kernels permitted by the present regulation will not result in the introduction of deleterious quantities of CPFA into the human diet.

3. The second objection contained data reporting that the cyclopropenoid fatty acids, which occur naturally in cottonseed and other seed oils, produce liver cancer in rainbow trout when fed with and without aflatoxin B_1 and M_1. A similar increased incidence was also reported in rats fed both CPFA and aflatoxin B_1.

The Commissioner has reviewed the suitability of trout feeding studies in assessing the safety of glandless cottonseed kernels and has concluded that such tests are not appropriate for the evaluation of food additives for human consumption. The trout is a cold-blooded animal and has many features in its metabolism and physiology that differ significantly from mammalian species. It is, therefore, not unusual that test chemicals administered to fish would elicit a response different from that observed in mammals. Fish are known to be quite sensitive to some test chemicals, and a positive response in this species does not provide definitive evidence that a particular chemical is unsafe for man. The study cited by this objection as evidence for the cocarcinogenicity of CPFA in rats (Nixon et al., *Journal of the National Cancer Institute*, 53: 453, 1974) indicated that a diet of 10 percent cottonseed oil (containing 0.35 percent CPFA) and 0.04 percent *Sterculia foetida* oil (containing 50 percent CPFA) failed to induce hepatomas when fed to the Fischer and Wistar strains of rats. Furthermore, the authors concluded that, although a small increase in tumor incidence was observed, a statistically significant cocarcinogenic effect of CPFA could not be found from these studies. In summary, the positive response obtained from studies of CPFA conducted with rainbow trout could not be substantiated in feeding studies utilizing two strains of rats. The rat, a mammalian species, is the animal of choice (as opposed to the fish) for toxicological testing of CPFA to obtain data concerning the safety of glandless cottonseed kernels for human consumption. Therefore, the Commissioner concludes that this objection contains insufficient justification for rescinding this regulation.

4. As further evidence of the potential toxicity of CPFA in man, the second objection cited a 5-week feeding study on rabbits which resulted in the development of atherosclerotic plaques and elevated serum cholesterol levels.

The Commissioner has thoroughly reviewed the metabolic response of the rabbit to CPFA. The rabbit is not a useful animal species for the testing of hypercholesterolemic and atherosclerotic potential in man. The rabbit differs significantly from the human in lipid metabolism and is particularly susceptible to hypercholesterolemia because of its unusual metabolism. Such responses can be obtained in the rabbit with many common food lipids, and this animal often has been used in experiments for screening cholesterolemia because a positive response is almost assured. The rabbit, therefore, is not an appropriate species to utilize in investigating the safety of a lipid for human consumption. A more complete discussion on this subject may be found in publications in the scientific literature by (1) Lee, K. T., J. Karmolych, D. N. Kim, C. Grant, J. A. Krasney, and W. A. Thomas, *Journal of Experimental and Molecular Pathology*, 15: 170-190, 1971; (2) Wissler, R. W. and W. D. Vesselinovitch, *Annals of the New York Academy of Sciences*, 149: Article 2, p. 107, 1968; and (3) Fuller, G., E. Miller, T. M. Farber, and E. Van Loon, *Journal of Connective Tissue Research*, 1: 217-220, 1972. The Commissioner concludes from the above information that no role has been established for CPFA as a potential cause of atherosclerotic plaques and elevated serum cholesterol in humans. Therefore, this issue of the second objection raises no valid questions of human safety resulting from food use of glandless cottonseed.

5. Finally, the second objection cited reported studies in which CPFA produced toxic manifestations in rats including retardation in growth, increased liver size, alteration in tissue lipids, and impaired reproduction.

The Commissioner's review of the literature on these issues shows that the referenced studies used *S. foetida* seed oil containing approximately 30 to 50 percent CPFA at dietary levels ranging from 1 to 3 percent. Consequently, the test animals received a level of CPFA exposure many times greater than that expected from pres-

ent use levels of cooked or roasted glandless cottonseed.

In final reference to these issues, the Commissioner has already discussed with the petitioner the desirability of obtaining data that could be used in establishing a "no-effect" level for CPFA in animals. The petitioner was requested to complete such studies in rats before any additional uses, besides the limited ones permitted in the present regulation, could be considered. The studies, utilizing test group exposure of up to 20 percent roasted glandless cottonseed, have been completed. However, 6 percent cottonseed oil was added to the usual feed of the control group. As a result, the control group could not be cited as having true "zero exposure." Although this makes the validity of the studies questionable for the purpose of establishing an accurate "no-effect" level for acute and reproductive effects, it is pertinent that no obvious toxic effects were observed in either the test or the control groups. Therefore, on the basis of the studies currently available and in light of existing use levels, the Commissioner is convinced that the present regulated use of roasted or cooked glandless cottonseed kernels in baked goods, candy, and as a snack food is safe.

In view of all of these facts, the Commissioner concludes that no action should be taken to amend or rescind the regulation. However, notice is given that any petitions proposing expanded uses of glandless cottonseed for human consumption will require additional studies supporting safety commensurate with the levels of usage requested.

Dated: September 18, 1978.

JOSEPH P. HILE,
Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-26720 Filed 9-25-78; 8:45 am]

[4110-03]

[Docket No. 76P-0364]

TEXAS CITRUS EXCHANGE

Tomato Juice Deviating from Identity Standard; Extension of a Temporary Permit for Market Testing

AGENCY: Food and Drug Administration

ACTION: Notice.

SUMMARY: This document announces the extension of a temporary permit issued to the Texas Citrus Exchange to market test tomato juice from concentrate prepared from concentrated tomato liquid and water. The finished product deviates from the standard of identity for tomato juice.

DATES: This extension is effective on September 26, 1978, and shall terminate either on the effective date of an affirmative order ruling on the Food and Drug Administration's proposal to amend the identity standard for tomato juice or 30 days after a negative order ruling on the proposal, whichever the case may be.

FOR FURTHER INFORMATION CONTACT:

F. Leo Kauffman, Bureau of Foods (HFF-414), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-245-1164.

SUPPLEMENTARY INFORMATION: The original permit was issued to the Texas Citrus Exchange under § 130.17 (21 CFR 130.17) concerning temporary permits to facilitate market testing of foods deviating from the requirements of the standards of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341). Notice of the issuance of the permit was published in the FEDERAL REGISTER of December 7, 1976 (41 FR 53545). The permit covered limited interstate marketing tests of tomato juice from concentrate that deviates from the standard of identity prescribed for tomato juice under § 156.145 (21 CFR 156.145); the test product is prepared by adding water to concentrated tomato liquid complying with the tomato puree requirements of § 155.191(a)(1) (21 CFR 155.191 (a)(1)). The finished product is to be equivalent to a single-strength tomato juice normally found in the marketplace. All ingredients are to be declared on the label by their commmon or usual name.

The Texas Citrus Exchange has submitted a request that its temporary permit be extended during the pendency of the administrative proceedings for the proposed amendment of the standared of identity for tomato juice published in the FEDERAL REGISTER of May 9, 1978 (43 FR 19864). The proposed amendment would, among other things: (1) Permit the use of concentrated tomato juice to prepare a single-strength tomato juice product; (2) require the name "tomato juice from concentrate" when concentrated tomato juice is used in the preparation of the canned juice; (3) establish in the identity standards a minimum tomato soluble solids requirement of 5.5 percent, by weight, for the product made from concentrate; (4) require label declaration of all optional ingredients.

The Commissioner of Food and Drugs concludes that it will be in the interest of consumers to extend the time period of the temporary permit and to permit further market testing of the product, 4,200 cases of forty-eight 6-ounce cans of tomato juice from concentrate per month, as requested. Under § 130.17, all interested persons may participate in the market test under the conditions that apply to the Texas Citrus Exchange, including the labeling requirements and the amounts to be distributed.

Any interested person who elects to participate in the extended market test shall notify the Commissioner in writing of that fact, the amount to be distributed, and the area of distribution, and shall submit the labeling under which the food will be distributed.

This permit extension, as issued to the Texas Citrus Exchange and such others who participate in accordance with the provisions set out above, is effective on September 26, 1978, and expires either on the effective date of an affirmative order ruling on the Food and Drug Administration's proposal of May 9, 1978, or 30 days after a negative order ruling on the proposal, whichever the case may be.

Dated: September 18, 1978.

JOSEPH P. HILE,
Associate Commissioner Regulatory Affairs.

[FR Doc. 78-26719 Filed 9-25-78; 8:45 am]

[4110-35]

MEDICARE PROGRAM

Schedule of Limits on Hospital Costs for Cost Reporting Periods Beginning on or After October 1, 1978

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Final notice of schedule of limits on hospital inpatient general routine service costs.

SUMMARY: This notice sets forth a schedule of limits on hospital inpatient general routine service costs that may be reimbursed under Medicare for cost reporting periods beginning on or after October 1, 1978.

This revised schedule replaces the schedule published in the FEDERAL REGISTER on October 3, 1977 (42 FR 53675). It covers total inpatient general routine service costs, and applies to the entire cost reporting period of a hospital whose cost reporting period begins on or after October 1, 1978.

It does not apply to the cost of special care units or ancillary services. These limits will be revised to conform with any cost containment legislation enacted after the effective date of the schedule.

EFFECTIVE DATE: October 1, 1978.

FOR FURTHER INFORMATION, CONTACT:

Bill Goeller, Branch Chief, Provider Reimbursement Policy Branch, Division of Provider Reimbursement and Accounting Policy, Medicare Bureau, Health Care Financing Administration, U.S. Department of Health, Education, and Welfare, Room 405, East Highrise Building, 6401 Security Boulevard, Baltimore, Md. 21235, 301-594-9820.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Section 1861(v)(1) of the Social Security Act (42 U.S.C. 1395x(v)(1)) authorizes the Secretary to set propsective limits on the costs that are reimbursed under Medicare (Regulation § 405.460). Such limits may be applied to the direct or indirect overall costs or to costs incurred for specific items or services furnished by a Medicare provider, and may be based on estimates of the cost necessary in the efficient delivery of needed health services. Under this authority, limits on hospital inpatient general routine service costs have been published annually since 1974. The schedule of limits set forth below was published for public comment in the FEDERAL REGISTER on June 15, 1978 (43 FR 25869). It includes several changes from previous practice.

SUMMARY OF CHANGES

The new schedule of limits provides for:

1. An inflation factor based on actual program experience for hospital inpatient general routine service costs rather than an inflation factor based on total hospital inpatient costs which was used in previous schedules.

2. As explained in the proposed notice of June 15, 1978 (43 FR 25873) an additional 1-year grace period for those hospitals that received the 1-year grace period for reclassified hospitals in their cost reporting period beginning on or after July 1, 1977, but before July 1, 1978.

3. A revised schedule of dollar limits, by geographic area and hospital size.

DISCUSSION OF MAJOR COMMENTS

Approximately 70 comments were received in response to the June 15th notice, from representatives of national, State and individual provider organizations. All of the comments or inquiries have been reviewed, evaluated and, to the extent noted below, incorporated in the development of the revised Schedule of Limits.

The most significant comments and our responses are summarized below:

1. Use of the Inflation Factor Based on Actual Program Experience for Hospital Inpatient General Routine Service Costs—As explained in the proposed notice, the Schedule of Limits was previously updated according to an inflation factor for total hospital inpatient costs, computed by the SSA Actuary. However, recent evidence demonstrates that the actual inflation rate for per diem inpatient general routine service costs is considerably lower than that for per diem total hospital inpatient costs. Since the schedule of limits only applies to general inpatient routine service costs we no longer believe it appropriate to use a projected inflation rate for per diem total hospital inpatient costs in developing the schedule.

Several commenters questioned our use of an inflation factor based on the growth of per diem inpatient routine service costs in the period 1974–1976, contending that these costs may have grown at an uncharacteristically slow pace during that period. In our view, there is no evidence to support this contention. As discussed in the proposed notice, if anything, it appears likely that there has been a further decline in the rate at which these costs have risen. For example, our data show that the portion of gross interim rates attributable to routine service costs rose by only 10.3 from August, 1976 to August, 1977. Moreover, the 11.5 percent figure is given further credence by the fact that an 11.6 percent increase is projected for per diem hospital payroll costs for 1978 and 1979 (See 1978 Annual Report of the Board of Trustees of the Federal Hospital Insurance Trust Fund); it is generally acknowledged that payroll costs are the major component of routine service costs.

We have an important responsibility under the act to assure that Medicare reimbursement for services rendered to beneficiaries is not excessive. In light of the evidence we now have that the inflation rate for per diem inpatient routine service costs has been much lower than for per diem total inpatient hospital costs, we would not be meeting this responsibility if we continued to use an inflation factor projected for per diem total inpatient hospital costs in developing the schedule of limits for per diem inpatient routine service costs. Accordingly, we have shifted to an inflation factor based on actual experience for inpatient routine service costs in developing this schedule.

Commenters also criticized our use of the 1974–1976 data on the grounds that those data are now outdated. While we do not dispute the desirability of using current data, we had to rely on the most recent data available in making our projections. Congress expressly recognized that the Department may have to rely on cost reports for much earlier accounting periods in establishing limits. See S. Rep. No. 92-1230, 92d Cong., 2d Sess. 189 (1972).

One comment stated that it was unreasonable to arrive at the 11.5-percent inflation factor by projecting a further decline in the ratio of per diem inpatient routine service costs to per diem total inpatient hospital costs. This comment was based on a misreading of our proposed notice. As explained there, we did not project a continuing decline in this ratio to reach the 11.5-percent figure. Had we projected such a continuing decline, the result would have been an inflation factor of 10 percent, rather than 11.5 percent. However, we were unwilling to make such a projection based on data from only a 3-year period.

Several commenters noted that the limit set in this schedule do not equal an 11.5-percent increase over the limits set for cost reporting periods beginning on or after October 1, 1977. The reason for this is that the inflation factor is applied not to the limits in the previous schedule, but to an adjusted figure based on inpatient routine service costs as of a particular date of data collection. Because there appears to be considerable misunderstanding on this point, we will briefly review the methodology used to reach the limits in this schedule.

The methodology for calculating the limits is set forth at section I below. The first step under this methodology is data collection from the intermediaries. For purposes of developing this schedule, the relevant date of data collection was August 1, 1977. We requested the intermediaries to provide certain data for all general acute short-term hospitals participating in medicare, from which we were able to tabulate two figures: First, the per diem inpatient routine service cost from the most recently filed cost report and second, the portion of each such hospital's gross interim rate (as of August 1, 1977) that was attributable to inpatient routine service costs.

The following example illustrates how we made the computations from the data supplied by the intermediaries. Data for the first four factors listed below were obtained from each hospital's most recently filed cost report.

ASSUMPTIONS FOR HOSPITAL A

1. Part A inpatient days—general routine services, 10,000.

2. Part A inpatient days—special care units, 2,000.

3. Total part A inpatient general routine service costs, $1,200,000.

4. Total part A inpatient service costs, $2,400,000.

5. Gross interim rate for part A inpatient costs as of August 1, 1977, $250.

COMPUTATIONS

A. Per diem inpatient routine service costs based on most recently filed cost report:

1,200,000/10,000=$120

B. Portion of gross interim rate (as of August 1, 1977) attributable to per diem inpatient routine service costs:

1. Per diem total inpatient hospital cost:

2,400,00/12,000=$200

2. Ratio of per diem inpatient routine service costs to per diem total inpatient hospital costs:

$120/$200=60 percent

3. 60 percent × $250=$150.

The second step in calculating the limits is to array the per diem inpatient routine services costs for all hospitals in a particular classification in descending order. In arraying the inpatient routine service cost for a particular hospital, we chose the higher of the inpatient routine service cost calculated from the August 1, 1977, gross interim rate or of the inpatient routine service cost obtained from the most recently filed cost report. Thus, in arraying the inpatient routine service cost for hospital A in the example above, we would have used the $150 interim rate figure, rather than the $120 cost report figure.

Steps 3 and 4 of the methodology (the selection of the 80th percentile and the addition of 10 percent of the median) are followed to arrive at the base limit for a particular classification of hospitals. The inflation factor is then applied to this base figure (step 5). The updating for the present schedule was done for a 20-month period—August 1, 1977 (the date of data collection) to April 1, 1979 (the midpoint of a cost accounting year beginning October 1, 1978). Accordingly, a 19.9-percent inflation factor was applied, which is the equivalent on a 20-month basis to 11.5 percent on a 12-month basis. As discussed in section V below, additional updating for inflation is done for hospitals whose cost reporting periods begin after October 1, 1978.

Several commenters recommended that we base the cost limits solely on cost report data, without taking into consideration interim rates. The problem with this suggestion is the necessary lag in obtaining cost report information. For instance, as of the date of our data collection (August 1, 1977), many of the most recently filed cost reports were for cost reporting periods that ended in calender year 1976 and thus did not reflect increases in cost that had occurred after that time. We believe that the use of the higher routine per diem interim rate in formulating the arrays makes allowance for these cost increases and, therefore, is more equitable to the providers.

2. Adequacy of the classification system—As in previous years some comments were critical of the classification system. A number of respondents questioned the validity of per capita income as an indicator of economic environment. Specific comments about per capita income are discussed below but, as a general thought, it is important to state that per capita income was used in the classification system because it is uniformly available for all parts of the country and is heavily influenced by area wage levels. However, we do believe the per capita income classifier is a matter of legitimate concern. We have examined alternative variables in the past and have found the potential alternatives to be extremely limited and not acceptable for use in the system. Nevertheless, we continue to be concerned about the matter and have placed a very high priority on examining alternative indicators of economic environment. However, given the data that are presently available, we continue to believe that per capita income remains the most reliable basis for classification.

Many comments indicated that the use of per capita income does not recognize the higher salary cost incurred in certain parts of the country. The Health Care Financing Administration's regulations (42 CFR § 405.460(f)) provide for exceptions to the limits under certain criteria; pursuant to that regulation, we will consider exceptions based on reasonable and necessary wage costs. However, for such an exception to be granted, it will be necessary for a hospital to show that its wages are higher than the wages paid by other hospitals in its group and that such a higher wage level is necessary because of extraordinary circumstances it cannot control and not, for example, because of staffing levels which exceed reasonable norms.

The comments frequently expressed the opinion that the classification system does not use a sufficient number of variables to achieve comparability among the hospitals in each group. Those commenting faulted the classification system for failing to include such variables as length of stay, case mix and scope of service. The Department has analyzed these variables in the past and concluded that their inclusion in a classification system is not feasible at this time. The commenters did not provide any evidence that would change this conclusion.

3. Source of per capita income data—Comments were received concerning the source of per capita income data used to group SMSA/SCSA's and non-SMSA/SCSA's and the use of 1975 data. The data utilized are from Local Area Personnel Income 1970-75, August 1977, Volume 1, Summary, published by the U.S. Department of Commerce, Bureau of Economic Analysis. These were the latest per capita income data available at the time of our data collection. Many comments requested that the per capita income data used in the classification criterion be published in the FEDERAL REGISTER so that providers would have access to this information. The ranges of per capita income used in the classification system are published in the final notice of the schedule of limits.

4. Teaching activity—A major comment concerned the classification of medium-sized major teaching hospitals. The commenter stated that the 101-404 bed-size category would be made up of predominantly community hospitals with limited teaching programs and the limits for this bed-size category would not adequately reflect the costs of extensive teaching programs. Although the classification system does not contain a variable for educational activities, an exception to the cost limits is available for hospitals whose costs of educational activities exceed the norm for the group in which they are classified.

5. Depreciation and interest cost of new construction—Many comments criticized the current classification system because it does not recognize the higher depreciation and interest cost associated with the construction of new facilities. Although the classification system does not separately take account of costs associated with new construction, exceptions to the limits may be granted for extraordinary depreciation, interest, insurance, or taxes incurred on newly constructed (or remodeled) facilities under certain circumstances. If the provider believes an exception to the limits is warranted for these reasons, it should file such a request with its fiscal intermediary.

6. Exceptions process—Some comments criticized the lack of general instructions disclosing the methodology to be used to determine whether an exception will be granted.

We agree that more general instructions concerning the filing of exception requests should be issued. We are presently in the process of updating the provider reimbursement manual to provide instructions to all providers concerning the filing of exception requests and the methodologies used in the exception procedures. However, intermediaries have available extensive material on methodologies and, until the revision to the provider reimbursement manual is issued, we suggest that any hospital requiring assistance in the filing of an exception should contact its servicing intermediary for guidance.

Another comment requested that procedures be adopted that would allow hospitals to determine prospectively whether budgeted costs in excess of published limits would qualify for an exception. Those procedures are available now. If a provider believes it is entitled to an exception

from the cost limits applicable to its classification grouping because of the provision of atypical costs and its budgeted costs are in excess of the established cost limit, then the provider should request an exception through its intermediary.

7. Further background—For further discussion of the schedule, and a discussion of prior comments received on it, see: FEDERAL REGISTER (42 FR 53675) published October 3, 1977, the FEDERAL REGISTER (41 FR 26992) published June 30, 1976, the FEDERAL REGISTER (40 FR 23622) published May 30, 1975, and the FEDERAL REGISTER (39 FR 20168) published June 6, 1974.

EFFECTIVE DATE

We find that there is good cause for making this schedule effective October 1, 1978. Many hospitals have cost reporting periods beginning on that date. It is in the public interest that these hospitals should be subject to the limits in this schedule since these limits are based on more current data than the limits published in the previous schedule.

SCHEDULE AND METHODOLOGY

I. *Methodology for calculating limits.* The limits were developed in the following manner:

1. Inpatient general routine service cost data for each participating hospital were obtained from the fiscal intermediaries.

2. The data for hospitals in each class were arrayed in descending order of inpatient general routine service cost.

3. The 80th percentile and the median were computed for each class.

4. For each class, an amount equal to 10 percent of the median was added to the 80th percentile amount.

5. This sum was adjusted to reflect that 11.5-percent annual rate of estimated cost increases in per diem inpatient general routine service costs following the date of data collection.

6. The amounts calculated in step 5 are rounded to the next highest dollar which establishes the limit for each class, subject to adjustment for hospitals whose reporting period begins after October 1, 1978.

II. *Extension of grace period for reclassified hospitals.* We have extended the grace period for an additional year for those hospitals that received the grace period for cost reporting years beginning on or after July 1, 1977 but before July 1, 1978. We reflect this extension in this schedule of limits by making a hospital subject to the highest of (a) the current limit of the group in which it is currently classified; or (b) the current limit of the group in which it was classified in the immediately preceding cost reporting period; or (c) the current limit of the group in which it was classified in the second preceding cost reporting period.

The following examples illustrate how this would work.

Example A. Hospital A's cost reporting period begins on October 1. On October 1, 1976 and again on October 1, 1977, it was classified in Group II. On October 1, 1978, it was classified in Group III. For its cost reporting year beginning October 1, 1978, it will be subject to the higher of the current Group II or the current Group III limit.

Example B. Hospital B's cost reporting period begins on October 1. On October 1, 1976, it was classified in Group I; on October 1, 1977, it was classified in Group II; and on October 1, 1978, it was classified in Group III. For its cost reporting period beginning October 1, 1978, it will be subject to the highest of the current Group I or the current Group II or the current Group III limits.

This does not constitute a permanent 2 year grace period for reclassified hospitals. We are providing this 1 year extension on an interim basis pending further review of the problem and consideration of other alternatives.

III. *Classification of geographical areas.* The Standard Metropolitan Statistical Area/Standard Consolidated Statistical Area (SMSA/SCSA) groupings were developed by:

1. Arraying the SMSA/SCSAs by size of per capita income; and

2. Combining those with similar economic environment as reflected in per capita income.

The same procedure was followed for grouping the non-SMSA/SCSA areas to arrive at State groups. There are five groups for each of these two categories. Counties, rather than SMSA/SCSA areas, are listed for New England States in the first category.

Hospitals located within SMSA/SCSA areas identified by figure (1) are reclassified in this schedule and will receive the 1-year grace period for reclassified hospitals. They will follow example A under section II in determining the applicable limit.

Hospitals located within SMSA/SCSA areas identified by figure (2) have a classification in this schedule different from their classification for the schedule of limits for cost reporting periods beginning on or after July 1, 1976 (published on June 30, 1976 at 41 FR 26992). They will follow example B under section II in determining the applicable limit.

Hospitals that are not located in SMSA/SCSA areas but that are located in States identified by a figure (3) are reclassified in this schedule and will receive the 1-year grace period for reclassified hospitals. They will follow example A under section II in determining the applicable limit.

Hospitals that are not located in SMSA/SCSA areas but that are located in States identified by a figure (4) have a classification in this schedule different from their classification for the schedule of limits for cost reporting periods beginning on or after July 1, 1976. They will follow example B under section II in determining the applicable limit.

LOCATIONS WITHIN SMSAs

SMSA/SCSA GROUP I

Alaska

Anchorage.

California

Los Angeles-Long Beach-Anaheim (SCSA)
Los Angeles-Long Beach; Anaheim-Santa Ana-Garden Grove; Oxnard-Simi Valley-Ventura; and Riverside-San Bernardino-Ontario.
Salinas-Seaside-Monterey
San Francisco-Oakland-San Jose (SCSA)
San Francisco-Oakland; San Jose; and Vallejo-Fairfield-Napa.

Colorado

Denver-Boulder.

Connecticut

Fairfield; Hartford; Litchfield; Middlesex; and Tolland Counties.

District of Columbia

Washington, D.C., District of Columbia, Maryland, and Virginia.

Florida

Sarasota; West Palm Beach-Boca Raton.

Hawaii

Honolulu.

Illinois

Chicago-Gary, IL–IN (SCSA)
Chicago, Ill., Gary-Hammond-East Chicago, Ind.
Peoria; Springfield.

Iowa

Davenport-Rock Island-Moline, Iowa-Illinois; Des Moines.

Michigan

Detroit-Ann Arbor (SCSA)
Detroit; Ann Arbor.

Nevada

Las Vegas; Reno.

New Jersey

See New York SCSA.

New York

New York-Newark-Jersey City, N.Y., N.J., and Conn. (SCSA)
New York, N.Y.-N.J.; Newark, N.J.; Jersey City, N.J.; Paterson-Clifton-Passaic, N.J.; Nassau-Suffolk, N.Y.; Long Branch-Asbury Park, N.J.; New Brunswick-Perth Amboy-Sayreville, N.J.
Poughkeepsie, Rochester.

Texas

Houston-Galveston (SCSA)
Houston; Galveston-Texas City.
Midland.

Virginia

Richmond.

Washington

Richland-Kennewick.
Seattle-Tacoma (SCSA)
Seattle-Everett; Tacoma.

Wisconsin

Kenosha

SCSA/SMSA GROUP II

California

Fresno; Sacramento; San Diego; Santa Barbara-Santa Maria-Lompoc; Santa Cruz; Santa Rosa; and Stockton.

Connecticut

New Haven and New London Counties.

Delaware

See Philadelphia SCSA.

Florida

1 Miami Ft. Lauderdale (SCSA)
Fort Lauderdale-Hollywood; Miami.

Georgia

Atlanta.

Idaho

Boise City.

Illinois

Bloomington-Normal; Decatur; Kankakee; and 2 Rockford.

Indiana

Fort Wayne; Indianapolis; and Kokomo.

Iowa

Cedar Rapids; Sioux City, Iowa-Nebr.; and Waterloo-Cedar Falls.

Kansas

Topeka and Wichita.

Kentucky

Louisville, Ky.-Ind.

Maryland

Baltimore.

Massachusetts

2 Essex; 2 Middlesex; 2 Norfolk; 2 Plymouth; and 2 Suffolk Counties.

Michigan

2 Flint; Jackson; and Saginaw.

Minnesota

1 Minneapolis-St. Paul, Minn.-Wis.; Rochester.

Missouri

Kansas City, Mo.-Kans.; St. Louis, Mo.-Ill.

Montana

Billings.

Nebraska

Lincoln; Omaha, Nebr.-Iowa.

New Hampshire

Rockingham County.

New Jersey

See Philadelphia SCSA.

New York

Albany-Schenectady-Troy; Buffalo.

North Dakota

Grand Forks, N. Dak.-Minn.

Ohio

1 Cleveland; Akron-Lorain (SCSA)
Cleveland; Akron; and Lorain-Elyria.
Dayton; Toledo, Ohio-Mich.

Oklahoma

Tulsa.

Oregon

Portland, Oreg.-Wash.

Pennsylvania

Philadelphia-Wilmington-Trenton, Pa.-Del.-Md.-N.J. (SCSA)
Philadelphia, Pa.-N.J.; Trenton, N.J.; Wilmington, Del.-N.J.-Md.
Allentown-Bethlehem-Easton, Pa.-N.J.; Harrisburg; Lancaster; Pittsburgh; and Reading.

Rhode Island

Bristol; Kent; Newport; Providence; and Washington Counties.

Texas

Amarillo; Beaumont-Port Arthur-Orange; Dallas-Fort Worth.

West Virginia

Charleston.

Wisconsin

1 *Milwaukee-Racine (SCSA)*
Milwaukee and Racine.
Madison.

SCSA/SMSA GROUP III

Alabama

Birmingham.

Arizona

1 Phoenix.

Arkansas

Little Rock-North Little Rock.

California

1 Bakersfield and Modesto.

Colorado

Greeley and Pueblo.

Florida

Jacksonville; Orlando; and Tampa-St. Petersburg.

Illinois

Champaign-Urbana-Rantoul.

Indiana

2 Anderson; Evansville, Ind.-Ky.; and 2 South Bend.

Iowa

Dubuque.

Kentucky

Lexington-Fayette.

Louisiana

Baton Rouge and New Orleans.

Maine

Cumberland and York Counties.

Massachusetts

1 Berkshire, Hamden, Hampshire; 1 Worcester Counties.

Michigan

2 Battle Creek, Bay City; 1 Grand Rapids; 1 Kalamazoo-Portage; 2 Lansing-East Lansing.

Minnesota

Duluth-Superior, Minn.-Wis.

Montana

Great Falls.

New Hampshire

Hillsborough; Merrimack Counties.

New Jersey

Atlantic City.

New York

Binghamton, N.Y.-Pa; Elmira; Syracuse.

North Carolina

Charlotte-Gastonia; 1 Greensboro-Winston Salem-High Point; Raleigh-Durham.

North Dakota

2 Fargo-Moorehead, N.D.-Minn.

Ohio

1 *Cincinnati-Hamilton, Ohio-Ky.-Ind. (SCSA)*. Cincinnati, Ohio-Ky.-Ind.; Hamilton-Middletown, Ohio; Canton; Columbus; 1 Lima, Mansfield; Springfield; Steubenville-Weirton, Ohio-W. Va.; 1 Youngstown-Warren.

Oklahoma

Oklahoma City.

Oregon

Salem.

Pennsylvania

Erie; York.

South Dakota

Sioux Falls.

Tennessee

Memphis, Tenn.-Ark.-Miss.; Nashville-Davidson.

Texas

Abilene; Killen-Temple; Longview; Odessa; San Angelo; Tyler; Wichita Falls.

Utah

Salt Lake City-Ogden.

Virginia

Newport News-Hampton; Petersburg-Colonial Heights-Hopewell; Roanoke.

Washington

Spokane; Yakima.

West Virginia

Wheeling, W. Va.-Ohio.

Wisconsin

Appleton-Oshkosh.

SCSA/SMSA GROUP IV

Alabama

Anniston; Huntsville; Montgomery.

Arizona

1 Tucson.

Colorado

Colorado Springs; Fort Collins.

Florida

Bradenton; Daytona Beach; Fort Myers; Lakeland-Winter Haven; Melbourne-Titusville-Cocoa.

Georgia

Augusta, Ga.-S.C.; Columbus, Ga.-Ala.; Macon; Savannah.

Indiana

2 Lafayette-West Lafayette; Muncie; Terra Haute.

Kentucky

Owensboro.

Louisiana

Lafayette; Lake Charles; Shreveport.

Massachusetts

Bristol County.

Michigan

Muskegon-Norton Shores-Muskegon Heights.

Mississippi

1 Jackson; Pascagoula-Moss Point.

Missouri

Columbia; 2 St. Joseph; Springfield.

New Jersey

1 Vineland-Millville-Bridgeton.

New Mexico

Albuquerque.

New York

Utica-Rome.

North Carolina

Burlington.

Oregon

Eugene-Springfield

Pennsylvania

Johnstown; Wilkes-Barre-Scranton-Hazleton (Northeast Pa.); Williamsport.

South Carolina

Columbia; Greenville-Spartanburg.

Tennessee

Chattanooga, Tenn.-Ga.; Knoxville.

Texas

Austin; Corpus Christi; Lubbock; San Antonio; Sherman-Denison; Waco.

Virginia

Lynchburg; 1 Norfolk-Virginia Beach-Portsmouth, Va.-N.C.

West Virginia

Huntington-Ashland, W. Va.-Ky.-Ohio; Parkersburg-Marrietta, W. Va.-Ohio.

Wisconsin

Green Gay; Eau Claire, La Crosse.

SCSA/SMSA GROUP V

Alabama

Florence, Gadsden, Mobile, Tuscaloosa.

Arkansas

Fayetteville-Springdale: Fort Smith, Ark.-Okla.; Pine Bluff.

Florida

1 Gainesville, Panama City, Pensacola, 1 Tallahassee.

Georgia

Albany.

Indiana

Bloomington.

Kansas

Lawrence.

Louisiana

Alexandria, Monroe.

Maine

Androscoggin County.

Minnesota

St. Cloud.

Mississippi

Biloxi-Gulfport.

North Carolina

1. Asheville, Fayetteville, Wilmington.

Oklahoma

Lawton.

Pennsylvania

Altoona.

Puerto Rico

Caguas, Mayaguez, Ponce, San Juan.

South Carolina

Charleston-North Charleston.

Tennessee

1 Clarksville-Hopkinsville, Tenn.-Ky.; Johnson City-Kingsport-Bristol, Tenn.-Va.

Texas

Brownsville-Harlingen-San Benito, Bryan-College Station; El Paso, Laredo, McAllen-Pharr-Edinburg, Texarkana, Tex.-Ark.

Utah

Provo-Orem.

LOCATIONS NOT WITHIN SMSA'S

GROUP I

Alaska, Iowa, Kansas, Massachusetts, Nebraska, Nevada, New Jersey, North Dakota, Washington, Wyoming.

GROUP II

California, Delaware, Hawaii, 4 Illinois, Indiana.

GROUP III

Colorado, 3 Connecticut, Idaho, 3 Maryland, Michigan, 4 Minnesota, Montana, New Hampshire, New York, Ohio, Oregon, Pennsylvania, 4 South Dakota, Vermont, Wisconsin.

GROUP IV

Arizona, 3 Florida, Maine, North Carolina, 4 Oklahoma, Texas.

GROUP IV

Arizona, 3 Florida, Maine, North Carolina, 4 Oklahoma, Texas.

GROUP V

Alabama, 4 Arkansas, Georgia, Kentucky, Louisiana, Mississippi, 4 Missouri, New Mexico, Puerto Rico, South Carolina, Tennessee, Utah, 4 Virginia, Virgin Islands, West Virginia.

IV. *Classification by bed size.* The following bed-size categories are used to classify hospitals:

STANDARD METROPOLITAN STATISTICAL AREAS

GROUPS I AND II

Less than 100, 100–404, 405–684, 685 and above.

GROUPS III, IV, AND V

Less than 100, 100–404, 405 and above.

NONSTANDARD METROPOLITAN STATISTICAL AREAS

Less than 100, 100–169, 170 and above.

V. *Schedule of limits.* The schedule of limits set forth below is applicable to 12-month cost reporting periods. Intermediaries for providers with shorter (or longer) cost-reporting periods must contact the Health Care Financing Administration for adjustement factors.

The limits are applicable to any hospital with a cost reporting period beginning on or after October 1, 1978. For a hospital that has a cost reporting period beginning after October 1, 1978, the published limit will be adjusted upward by a factor of 0.96 percent for each elapsed month between October 1, 1978, and the month in which the hospital's reporting period begins. The result of this calculation is not rounded and is to be given in dollars and cents.

Example. Hospital A's cost reporting period begins January 1, 1979, and ends December 31, 1979. Assume that the published cost limit for hospital A's group is $100.

Computation of adjusted cost limit

Published cost limit	$100.00
Plus: Adjustment for 3-mo period (Oct. 1, 1978, to Dec. 31, 1978), 3 mo×0.96=2.88 pct; 2.88 pct×cost limit.	2.88
Adjusted cost limit applicable to hospital A for the Jan. 1, 1979, to Dec. 31, 1979, reporting period	102.88

Limits for hospitals located within SMSA's by bed capacity

SMSA group	Less than 100	100 to 404	405 to 684	685 and above
I [1]	$157	$154	$172	$214
II	128	137	148	161
III	121	119	120	120
IV	113	113	111	111
V	101	101	126	126

[1] Limits apply to all SMSA's except Anchorage, Alaska, and Honolulu, Hawaii, where cost-of-living adjustment (25 percent Anchorage, Alaska; 17.5 percent Honolulu, Hawaii) was made. The limits for these areas are as follows:

	Less than 100	100 to 404	405 to 684	685 and above
Anchorage	$196	$192	$214	$268
Honolulu...	184	180	201	252

Limits for hospitals located outside SMSA's by bed capacity

State group	Less than 100	100-169	170 and above
I [2]	$113	$124	$124
II [3]	143	128	113
III	111	116	112
IV	110	107	109
V	90	90	91

[2] Limits apply to all group I States except Alaska where cost-of-living adjustment (25 pct) was made; limits for Alaska are:

Less than 100	$141
100 to 169	155
170 and above	155

[3] Limits apply to all group II States except Hawaii where cost-of-living adjustment (12.5 pct) was made; limits for Hawaii are:

Less than 100	$161
100 to 169	144
170 and above	127

VI. *Per capita income data—1975.*

Ranges by group

Group	SCSA/SMSA	Non-SMSA
I	Above $6,537	Above $4,776
II	5,879-6,537	4,583-4,776
III	5,387-5,878	4,075-4,582
IV	4,908-5,386	3,764-4,074
V	Below $4,908	Below $3,764

(Secs. 1102, 1861(v)(1), 1866(a), and 1871 of the Social Security Act; 49 Stat. 647; 79 Stat. 322; 79 Stat. 327; 79 Stat. 331; 86 Stat. 1393; 42 U.S.C. 1302, 1395x(v)(1), 1395cc(a) and 1395hh.)

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare—Hospital Insurance.)

Dated: August 31, 1978.

ROBERT A. DERZON,
Administrator, Health Care Financing Administration.

Approved: September 19, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc. 78-26073 Filed 9-25-78; 8:45 pm]

[4110-08]

REPORT ON BIOASSAY OF 1,2-DICHLOROETHANE FOR POSSIBLE CARCINOGENICITY

Availability

1,2-Dichloroethane (CAS 107-06-2) has been tested for cancer-causing activity with rats and mice in the Carcinogenesis Testing Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary. A bioassay of technical-grade 1,2-dichloroethane for possible carcinogenicity was conducted using Osborne-Mendel rats and B6C3F1 mice. 1,2-Dichloroethane in corn oil was administered by gavage, at either of two dosages, to groups of 50 male and 50 female animals of each species. The 78-week period of chemical administration was followed by an observation period of 32 weeks for the low dose rats of both sexes. The last high dose male rat died after 23 weeks of observation, and the last high dose female rat died after 15 weeks of observation. All treated groups of mice were observed for an additional 12 or 13 weeks following chemical administration.

Initial dosage levels for the chronic bioassay were selected on the basis of a preliminary subchronic toxicity test. Subsequent dosage adjustments were made during the course of the chronic bioassay. The time-weighted average high and low doses of 1,2-dichloroethane in the chronic study were 95 and 47 mg/kg/day, respectively, for rats of both sexes. The high and low time-weighted average doses for the male mice were 195 and 97 mg/kg/day, respectively, and 299 and 149 mg/kg/day, respectively, for the female mice.

For each species, 20 animals of each sex were placed on test as vehicle controls. These animals were gavaged with corn oil at the same times that dosed animals were gavaged with the 1,2-dichloroethane mixtures. Twenty animals of each sex were placed on test as untreated controls for each species. These animals were not intubated.

Under the conditions of this study, 1,2-dichloroethane was carcinogenic to Osborne-Mendel rats, causing squamous-cell carcinomas of the forestomach, hemangiosarcomas, and subcutaneous fibromas in male rats and causing mammary adenocarcinomas in female rats. This compound was also found to be carcinogenic to B6C3F1 mice, causing mammary adenocarcinomas and endometrial tumors in female mice, and causing alveolar/bronchiolar adenomas in mice of both sexes.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalog of Federal Domestic Assistance Program No. 13.393, Cancer Cause and Prevention Research.)

Dated: August 18, 1978.

THOMAS E. MALONE,
Acting Director, National Institutes of Health.

[FR Doc. 78-26538 Filed 9-25-78; 8:45 am]

[4110-92]

Office of Human Development Services

[Program Announcement No. 13608-791]

STATE CAPACITY BUILDING DEMONSTRATION PROGRAM

Availability of Grant Funds

AGENCY: Office of Human Development Services, HEW.

SUBJECT: Announcement of Availability of Grant Funds for the State Capacity Building Demonstration Program.

SUMMARY: The Administration for Children, Youth, and Families (ACYF) announces that applications are being accepted for grants under section 426 of the Social Security Act for Research and Demonstration Projects. Regulations governing this program published in the Code of Federal Regulations in 42 CFR Part 205.

DATES: The closing date for receipt of applications is November 15, 1978.

PROGRAM PURPOSE

The purpose of the State Capacity Building Demonstration Program is to demonstrate innovative methods and techniques for coordinating the delivery of services to children and their families at the State and local levels.

PROGRAM GOAL AND OBJECTIVES

The goal of the State Capacity Building Demonstration Program is to assist States in their efforts to plan, manage, and deliver services to children and their families in a coordinated manner. The grants are aimed at developing capabilities at the State and local levels to assess children's needs, plan programs, coordinate and allocate resources, monitor and evaluate programs, regulate and enforce requirements related to children's programs, develop outreach to consumers and consumer groups, and provide technical assistance to personnel and organizations involved in administering programs for children and their families. They are primarily designed to help States which have demonstrated their ability and interest in improving the overall quality of their management planning and service delivery systems for children and their families. The grants to be awarded generally will build upon existing statewide efforts rather than initiate new capacity building efforts. The grants, which are to be used to complement and supplement existing efforts, will stress the need for continuity of development efforts in applicant States and for engaging in activities demonstrating innovative techniques which result in measurable progess toward improving management planning and service

delivery capabilities in the applicant State.

Eligible Applicants

State Capacity Building Demonstration grants are made available to one State in each Federal Region per year. Eligibility for this program is limited to public or other nonprofit institutions of higher learning and to public or other nonprofit agencies and organizations engaged in research or child welfare activities. Only one organization in each State may apply and the application should be coordinated through the Governor's office. Continuation funding will be provided to projects in five of the Federal Regions and States which received funding through this program in fiscal year 1976 or before may not reapply; therefore, only the following States shown by Federal Region will be eligible to compete for fiscal year 1979 funding under this program announcement.

Region I—Maine, New Hampshire, Vermont and Massachusetts.
Region III—Maryland, Pennsylvania, West Virginia and District of Columbia.
Region IV—South Carolina, Georgia, Florids, Tennessee, Kentucky, Mississippi and Alabama.
Region IX—Hawaii, Nevada and Trust Territories.
Region X—Washington, Idaho and Alaska.

Available Funds

The Administration for Children, Youth, and Families expects to award one new grant of up to $70,000 in each of the five Federal Regions shown above for a total funding level during fiscal year 1979 of up to $350,000. The total grant period shall not exceed 3 years and subsequent year funding after the initial grant will be based on satisfactory completion of prior year grant goals and objectives.

Grantee Share of the Project

Grantees are expected to provide a matching share of the cost of the proposed demonstration project. Each State project must supply a letter from the Governor indicating a commitment to support the effort after Federal funds are no longer available to support it.

The Application Process

Availability of Forms

Application for a grant under the State capacity building program must be submitted on standard forms provided for this purpose. Application kits which include the forms and other information may be obtained from appropriate HEW Regional Offices listed in appendix A to this program announcement. Please request Program Announcement No. 13608-791.

Application Submission

One signed original and two copies of the grant application, including all attachments, must be submitted to the address indicated in the application instructions.

A-95 Notification Process

The State capacity building program is covered under the provisions of OMB Circular A-95. Applicants for grants must, prior to the submission of an application, notify the State A-95 clearinghouse of their intent to apply for Federal assistance for this program. Applicants should contact the appropriate State clearinghouse (listed in 42 FR 2210, January 10, 1977) for information on how they can meet the A-95 requirements.

Application Consideration

The acting heads of the children, youth, and family units in each of the five HEW regional offices listed above shall determine final action to be taken with respect to each grant application for this program. Applications which are complete and conform to the requirements of this program announcement are subject to a competitive review and evaluation by qualified persons independent of the Administration for Children, Youth, and Families.

The results of the review assist the acting heads in considering competing applications. The acting heads also take into account comments of the A-95 clearinghouses and regional office and headquarters staffs. Comments may also be requested from appropriate specialists and consultants both inside and outside of the Federal Government.

The successful applicant in each region is notifed through the issuance of a notice of grant awarded which sets forth the amount of funds granted, the terms and conditions of the grant, the budget period for which support is given and the total period for which project support is contemplated. Unsuccessful applicants are notified in writing of this decision.

Criteria for Review and Evaluation of Applications

Competing grant applications will be reviewed and evaluated against the following criteria:

1. The project objectives are specifically designed to assist the applicant State in its efforts to plan, manage, and deliver services to children and their families in a coordinated manner—(15 points).

2. The project is clearly designed to complement and supplement existing State efforts and stresses the need for continuity of development efforts—(10 points).

3. The project is designed to demonstrate innovative techniques which result in measurable progress toward improving management planning and service delivery capabilities in the applicant State—(10 points).

4. The activities to be undertaken, if well executed, will achieve the project objectives and information developed will be disseminated as appropriate—(10 points).

5. The proposed project personnel are or will be well qualified and the applicant organization has or will have adequate facilities and resources—(20 points).

6. The estimated cost to the Government is reasonable considering the anticipated results—(10 points).

7. The applicant has obtained the commitment and support from the agencies, groups, organizations, and individuals within the State whose cooperation would be necessary to accomplish proposed project goals and objectives—(25 points).

Closing Date for Receipt of Applications

The closing date for receipt of applications under this program announcement is November 15, 1978. Applications may be mailed or hand delivered. Hand delivered applications will be accepted during the regular working hours of the appropriate Regional Office. Mailed applications must be postmarked on or before November 15, 1978. Applications received after November 15, 1978, will not be accepted and such applicants will be notified accordingly.

(Catalog of Federal Domestic Assistance Program Number: 13.608, Child Welfare Research and Demonstration Projects.)

Dated: September 11, 1978.

Blandina Cardenas,
Commissioner, Administration for Children, Youth, and Families.

Approved: September 21, 1978.

Arabella Martinez,
Assistant Secretary for Human Development Services.

Appendix A

ACTING HEADS OF THE CHILDREN, YOUTH, AND FAMILY UNIT OFFICE OF HUMAN DEVELOPMENT SERVICES, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, REGIONS I-X

Region I: Mr. Roy Fleischer, Acting Head, Room 2000, JFK Federal Building, Government Center, Boston, Mass. 02203, 617-223-6450.
Region II: Mrs. Elaine Danavall, Acting Head, Federal Building, 26 Federal Plaza, Room 3900, New York, N.Y. 10007, 212-264-2974.
Region III: Mr. Fred Digby, Acting Head, Post Office Box 13716, 3535 Market Street, Philadelphia, Pa. 19101, 215-596-6763.

Region IV: Mr. John Jordan, Acting Head, Peachtree-Seventh Building, 50 7th Street NE, Room 358, Atlanta, Ga. 30323, 404-221-2134.
Region V: Mr. Hilton Baines, Acting Head, 300 South Wacker Drive, 15th floor, Chicago, Ill. 60606, 312-353-1781.
Region VI: Mr. Gerald Hastings, Acting Head, 1200 Main Tower, 20th floor, Dallas, Tex. 75202, 214-767-4604.
Region VII: Mrs. Linda Carson, Acting Head, Federal Building, 601 East 12th Street, 3d floor, Kansas City, Mo. 64106, 816-374-5401.
Region VIII: Mr. John Garcia, Acting Head, 1961 Stout Street, Room 7417, Denver, Colo. 80202, 303-837-3106.
Region IX: Mr. Samuel Miller, Acting Head, Federal Office Building, 50 United Nations Plaza, Room 143, San Francisco, Calif. 94102, 415-556-6153.
Region X: Mr. Patrick Davis, Acting Head, Mail Stop 622, Arcade Plaza Building, 1321 2d Avenue, Seattle, Wash. 98101, 206-442-0838.

[FR Doc. 78-27047 Filed 9-25-78; 8:45 am]

[4110-89]

Office of the Secretary

ADVISORY COUNCIL ON EDUCATION STATISTICS

Meeting

Notice is hereby given, pursuant to section 10, Pub. L. 92-463, that a meeting of the Advisory Council on Education Statistics will be held on October 26, 1978, from 9 a.m. to 4:30 p.m., in Room 3000, FOB No. 6, 400 Maryland Avenue SW., Washington, D.C. 20202. The meeting will be continued on October 27, 1978, from 9 a.m. to 4:30 p.m., at the same location.

The Advisory Council on Education Statistics is mandated by section 406(c) of the General Education Provisions Act as added by section 501(a) of the Education Amendments of 1974, Pub. L. 93-380 (20 U.S.C. 1221a-1(c)), to advise the Secretary of the Department of Health, Education, and Welfare and the Assistant Secretary for Education, and the National Center for Education Statistics (NCES); and "shall review general policies for the operation of the Center and shall be responsible for establishing standards to ensure that statistics and analyses disseminated by the Center are of high quality and are not subject to political influence."

The meeting agenda will include an Administrator's report summarizing recent developments regarding budget, staff, and major projects of the National Center for Education Statistics. Other major topics will include a discussion of the Center's program on statistical standards, the content of future agendas, and the Council's next annual report.

The meeting is open to the public; however, because of limited accommodations, those members of the public wishing to attend should make reservations by writing, no later than October 13, 1978, to:

Executive Director, Advisory Council on Education Statistics, Room 3153-E, FOB-6, 400 Maryland Avenue SW., Washington, D.C. 20202.

Records shall be kept of all Council proceedings and shall be available for public inspection in the Office of the Administrator, National Center for Education Statistics, located at 400 Maryland Avenue SW., Washington, D.C. 20202.

Signed at Washington, D.C., on September 20, 1978.

MARIE D. ELDRIDGE,
Administrator, National Center for Education Statistics.

DAVIE B. ORR,
Executive Director, Advisory Council on Education Statistics.

[FR Doc. 78-26952 Filed 9-25-78; 8:45 am]

[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N-78-894]

SPRAY APPLIED CELLULOSIC THERMAL INSULATION

Proposed Use of Materials Bulletin No. 80

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

ACTION: Notice.

SUMMARY: This notice makes available for public comment a proposed new HUD Use of Materials Bulletin No. 80 for the subject product under the technical suitability of products program, section 521 of the National Housing Act. Under this section the Secretary of HUD shall determine the technical suitability of materials and products to be used in structures approved for mortgages or loans insured under this Act. Since no Federal specification or other nationally recognized standard has to date been published for spray applied cellulosic thermal insulation, this proposed bulletin responds to that need.

DATE: Comments must be received by October 26, 1978.

ADDRESS: Comments should be addressed to the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh 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:

Donald K. Baxter, Chief, Architecture and Engineering Division, Office of Technical Support, Department of Housing and Urban Development, Washington, D.C. 20410, telephone 202-755-5929.

SUPPLEMENTARY INFORMATION: This proposed bulletin outlines the physical properties, test methods, limitations of use, guidelines for application and onsite quality control and labeling requirements for sprayed cellulosic insulations.

The current shortage of conventional insulating materials and the national need for conserving energy has placed a strain on production of conventional materials. Dry loose cellulosic insulation made of newsprint and other paper or paperboard scrap and waste has long been accepted by HUD. However, only recently have manufacturers developed a method for wet spray application with adhesives, using conventional cellulosic insulation. Since no Federal specification or other nationally recognized standard has to date been published, HUD has developed Use of Materials Bulletin No. 80 as a temporary acceptance standard. This standard is based on criteria now in process of development under the American Society for Testing and Materials (ASTM), but will not be available for publication for another 2 years. When a suitable national standard has been published, HUD's standard will be withdrawn.

The amount of pressure from the industry for the standard plus public sentiment for more protection in this area has created a need to publish this acceptance standard immediately. There is no conflict with the ASTM organization, since HUD's normal procedure is to adopt ASTM standards when they become available. In the meantime, this proposed HUD bulletin will help relieve a critical insulation resource problem as well as to protect consumer and other HUD interests.

The public is invited to comment on the proposed HUD use of materials bulletin. Copies of the bulletin are available for public inspection in the Architecture and Engineering Division (Room 6178), and Office of General Counsel, Rules Docket Clerk (Room 5218), Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410. Copies are also available in each HUD Field Office. Comments should be filed (using the above docket number and title) with the Rules Docket Clerk at the address stated above. All relevant written comments received will be considered. Copies of comments submitted will be available for examination by interested persons during

business hours in the Office of the Rules Docket Clerk.

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.

(Sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d); sec. 6(b) of U.S. Housing Act of 1937, 42 U.S.C. 1437(d).)

Issued at Washington, D.C., on September 19, 1978.

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

[FR Doc. 78-26992 Filed 9-25-78; 8:45 am]

[4310-84]

DEPARTMENT OF THE INTERIOR

CLOSURE OF CENTENNIAL MOUNTAINS TO MOTORIZED VEHICLE USE

SEPTEMBER 15, 1978.

Notice is hereby given that pursuant to an agreement between the Science and Education Administration (SEA) and the Bureau of Land Management and in accordance with the provisions of 43 CFR 6010.4 and 6290 and Executive Order No. 11644 the below described lands are closed to motorized vehicle use, excepting emergency and law enforcement vehicles and Federal or other government vehicles while being used for emergency purposes, and as otherwise listed in this notice.

UNITED STATES DUBOIS SHEEP EXPERIMENT STATION

Motorized vehicle use in the following described areas is limited to SEA for administrative purposes:

PRINCIPAL MERIDIAN, MONTANA.

BLAIR LAKE TRAIL

T. 15 S., R. 1 E.,
Sec. 3, Lots 3, 4, and 5; and
Sec. 4, Lots 1 and 2.

ODELL CREEK ACCESS

T. 15 S., R. 1 W.,
Sec. 18, Lots 2, 3, 4, 5, and 8.
T. 15 S., R. 2 W.,
Sec. 13, Lot 4 and E½NE¼.

All motorized vehicle use is prohibited in the following described lands:

T. 14 S., R. 1 E.,
Sec. 25, SW¼SW¼;
Sec. 26, S½S½;
Sec. 27, S½S½;
Sec. 28, SE¼SE¼;
Sec. 32, Lots 3 and 4;
Sec. 33, Lots 1, 2, 3, and 4, NE¼, SE¼NW¼, and N½S½; and
Secs. 34 and 35.
T. 15 S., R. 1 E.,
Secs. 1 and 2;
Sec. 3, Lots 1 and 2;
Sec. 4, Lots 3 and 4, N½, and N½SW¼;
Sec. 5, Lots 1, 2, 3, and 4, NE¼, NE¼NW¼, S½NW¼, and NE¼SE¼; and
Sec. 6, Lot 3.
T. 14 S., R. 1 W.,
Sec. 31, NE¼SE¼ and S½SE¼;
Sec. 32, S½NE¼ and S½; and
Sec. 33, S½SW¼ and SW¼SE¼.
T. 15 S., R. 1 W.,
Sec. 3, Lots 6 and 7, N½SW¼, and SW¼SW¼;
Sec. 4, Lots 2, 3, and 4, SW¼NE¼, S½NW¼, and S½S½;
Sec. 5, Lots 1, 2, 3, and 4, S½N½, NW¼SW¼, and S½S½;
Secs. 6 to 10 inclusive;
Sec. 17; and
Sec. 18, Lots 1, 6, and 7, and NW¼NE¼.
T. 15 S., R. 2 W.,
Secs. 1 to 4, inclusive;
Sec. 5, Lots 1, 4, and 5;
Secs. 9 to 12, inclusive;
Sec. 13, Lots 1, 2, and 3, W½NE¼, and N½NW¼; and
Sec. 14, 15, 22, and 23.

CENTENNIAL PRIMITIVE AREA

The following lands designated July 28, 1975, remain closed to motorized vehicle use;

T. 14 S., R. 1 E.,
Sec. 25, N½, N½SW¼, SE¼SW¼, and SE¼;
Sec. 26, N½ and N½S½;
Sec. 27, N½ andN½S½;
Sec. 28, N½, SW¼, N½SE¼, and SW¼SE¼;
Sec. 29, SE¼SW¼ and SE¼;
Sec. 31 Lots 1 to 7 inclusive, S½NE¼, E½NW¼, NE¼SW¼, and N½SE¼;
Sec. 32, Lots 1 and 2, N½, and N½S½; and
Sec. 33, N½NW¼ and SW¼NW¼.
T. 15 S., R. 1 E.,
Sec. 5, NW¼NW¼; and
Sec. 6, Lots 1, 2, 4, 5, and 6, NE¼ and E½NW¼.
T. 14 S., R. 1 W.,
Sec. 31, Lot 1, S½NE¼, SE¼NW¼, E½SW¼, and NW¼SE¼;
Sec. 32, N½NE¼ and NW¼;
Sec. 33, N½NE¼;
Sec. 34, N½, and SE¼;
Sec. 35; and
Sec. 36, SW¼SW¼.
T. 15 S., R. 1 W.,
Secs. 1 and 2; and
Sec. 3, Lots 1 and 2.
T. 14 S., R. 2 W.,
Sec. 19, Lots 13 and 14, E½SW¼, and SE¼;
Sec. 26, Lots 4 and 7, SW¼NW¼, W½SW¼, SE¼SW¼, and SW¼SE¼;
Secs. 27 to 35, inclusive; and
Sec. 36, S½SE¼.
T. 15 S., R. 2 W.,
Sec. 5, Lots 2 and 3; and
Sec. 6, Lots 1 to 4, inclusive.
T. 14 S., R. 3 W.,
Sec. 25;
Sec. 28, Lots 3 and 4, and NW¼SW¼;
Sec. 29, Lots 1 to 4, inclusive, and N½S½;
Secs. 32 and 33;
Sec. 34, S½NE¼, NW¼NW¼, and S½; and
Sec. 35, S½NW¼ and S½.
T. 15 S., R. 3 W.,
Secs. 1 to 5, inclusive; and
Secs. 7, 8, 9, 10, and 17.
T. 15 S., R. 4 W.,
Sec. 10, Lot 2, and NE¼SE¼;
Sec. 11, Lots 1 and 2, NE¼, N½SW¼, SW¼SW¼, N½SE¼, and SE¼SE¼;
Secs. 12, 13, and 14; and
Sec. 15, Lot 1.

Motorized vehicle use for the following described lands is restricted to the authorized licensee and permittee in accordance with the terms of a lease and permit previously issued.

UNITED STATES DUBOIS SHEEP EXPERIMENT STATION

T. 14 S., R. 1 W.,
Sec. 31, Lots 6 and 7;
Sec. 33, SW¼NE¼, S½NW¼, N½SW¼, N½SE¼, and SE¼SE¼; and
Sec. 34, W½SW¼.
T. 15 S., R. 1 W.,
Sec. 3, Lots 3, 4, and 5, and S½NW¼;
Sec. 4, Lot 1, SE¼NE¼, and N½S½; and
Sec. 5, NE¼SW¼ and N½SE¼.

CENTENNIAL PRIMITIVE AREA

T. 14 S., R. 1 W.,
Sec. 33, SE¼NE¼ and N½NW¼; and
Sec. 34, E½SW¼.

The area affected by this closure is located in Beaverhead County in southwestern Montana, north of the Continental Divide, which is the boundary between Montana and Idaho. The closure to vehicular use will better protect and preserve the unique natural values of the area. The area is presently being studied for its wilderness characteristics. Upon completion of the study, public comment will be solicited.

This closure will be effective October 1, 1978, and will remain in effect until further notice. The area will be patrolled to assure compliance. Any person who knowingly and willfully violates this closure shall be fined not more than $1,000 or imprisoned not more than 12 months, or both.

BILL D. NOBLE,
Acting State Director.

[FR Doc. 78-26989 Filed 9-25-78; 8:45 am]

[4310-03]

Heritage Conservation and Recreation Service

NATIONAL REGISTER OF HISTORIC PLACES

Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before September 15, 1978. Pursuant to § 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, Office of Archeology and Historic Preservation, U.S. Department of the Interior, Washington, D.C. 20240. Written comments or a request for additional time to prepare comments

should be submitted by October 6, 1978.

RONALD M. GREENBERG,
Acting Keeper of the National Register.

CALIFORNIA

Los Angeles County

Los Angeles, *Broadway Theater and Commercial District*, 300-849 S. Broadway.

Santa Clara County

San Jose, *Fallon, Thomas, House*, 175 W. St. John.

Siskiyou County

Tulelake vicinity, *Thomas-Wright Battle Site*, S. of Tulelake in Lava Beds National Monument.

FLORIDA

Jefferson County

Monticello, *Palmer-Perkins House*, 625 W. Palmer Mill Rd.

INDIANA

Elkhart County

Elkhart, *Beardsley, Albert R., House*, 302 E. Beardsley Ave.

Marion County

Indianapolis, *Reuben Wells (locomotive)* 3000 N. Meridian St.

Parke County

Parke County Covered Bridges, various locations in county.

Putnam County

Greencastle, *McKim Observatory, DePauw University*, DePauw and Highridge Aves.

Vanderburgh County

Evansville, *Bedford, William, Sr., House*, 838 Washington Ave.

Wayne County

Richmond, *Wayne County Courthouse*, bounded by Main, A, 3d and 4th Sts.

IOWA

Greene County

Jefferson, *Greene County Courthouse*, E. Lincoln Way and Chestnut St.

Poweshiek County

Grinnell, *Spaulding Manufacturing Company*, 500-610 4th Ave. and 827-829 Spring St.

Story County

Ames, *Alumni Hall*, Iowa State University campus.

MISSISSIPPI

Jefferson Davis County

Prentiss vicinity, *Magee Plantation*, E of Prentiss on Fort Stephens Rd.

NEW JERSEY

Burlington County

Bordentown, *Bordentown Historic District*, off U.S. 130/206.

NEW YORK

Saratoga County

Saratoga Springs, *Pure Oil Gas Station*, 65 Spring St.

OKLAHOMA

Caddo County

Stecker vicinity, *Domebo Archeological District*, E of Stecker.

Johnston County

Tishomingo, *Swinging Bridge*, Capitol Ave. and 12th St.

McIntosh County

Eufaula vicinity, *Creek Archeological District*, W of Eufaula.

Oklahoma County

Oklahoma City, *Kaiser's Ice Cream Parlour*, 1039 N. Walker Ave.
Oklahoma City, *Oklahoma City University*, 2501 N. Blackwelder.
Oklahoma City, *Stockyards City Historic District*, Exchange Ave. and Agnew St.

Tulsa County

Tulsa, *Mincks-Adams Hotel*, 403 S. Cheyenne.
Tulsa, *Skelly, William G., House*, 2101 S. Madison.

PENNSYLVANIA

Allegheny County

Pittsburgh, *Allegheny Observatory*, 159 Riverview Ave.

Philadelphia County

Philadelphia, *Compton and Bloomfield (Morris Arboretum)* 9414 Meadowbrook Ave. (also in Montgomery County).

Sullivan County

Laporte, *Sullivan County Courthouse*, Main and Muncy Sts.

York County

York, *York Historic District*, roughly bounded by Penn Central RR tracks, Hartley St., Lilac Lane, and Codorus Creek.

VERMONT

Addison County

New Haven, *New Haven Junction Depot*, jct. U.S. 7 and VT 17.

Caledonia County

Hardwick vicinity, *Hardwick Street Historic District*, NE of Hardwick.

Essex County

Island Pond, *Island Pond Historic District*, jct. of VT 105 and VT 114.

VIRGINIA

Tazewell County

Tazewell vicinity, *Big Crab Orchard Site*, W of Tazewell.

WEST VIRGINIA

Brooke County

Wellsburg, *Miller's Tavern*, 6th and Main Sts.
Wellsburg, *Wellsburg Wharf*, 6th and Main Sts.

Fayette County

Ansted, *Halfway House (Tyree Tavern) off U.S. 60.*

Greenbrier County

Alderson, *Miller, Alexander McVeigh, House (Miller, Mittie Clark, House) Hemlock Ave.*

Kanawha County

Charleston, *Laidley-Summers-Quarrier House*, 800 Orchard St.
East Bank, *Harriman, John, House*, 2233 3rd Ave.

Monongalia County

Morgantown, *Easton Roller Mill, E of Morgantown.*

Pocahontas County

Cass, *Cass Historic District*, SR 1 and SR 7.

Wood County

Parkersburg, *St. Francis Xavier Church*, 532 Market St.

[FR Doc. 78-26573 Filed 9-25-78; 8:45 am]

[4310-70]

National Park Service

CHESAPEAKE AND OHIO CANAL NATIONAL HISTORICAL PARK COMMISSION

Meeting

Notice is hereby given in accordance with Federal Advisory Committee Act that a meeting of the Chesapeake and Ohio Canal National Historical Park Commission will be held Saturday, October 21, 1978, at 1 p.m., at the Algonquin Regional Park, Loudoun County, Va.

The Commission was established by Pub. L. 91-664 to meet and consult with the Secretary of the Interior on general policies and specific matters related to the administration and development of the Chesapeake and Ohio Canal National Historical Park.

The members of the Commission are as follows:

Mr. Donald R. Frush (chairman), Hagerstown, Md.
Mrs. Bonnie Troxell, Cumberland, Md.
Miss Nancy Long, Glen Echo, Md.
Mrs. Constance Morella, Bethesda, Md.
Mr. Kenneth S. Rollins, Brookmont, Md.
Mr. Vladimir A. Whabe, Baltimore, Md.
Mr. Edwin F. Wesely, Jr., Brookmont, Md.
Mr. John D. Millar, Cumberland, Md.
Mr. James B. Coulter, Annapolis, Md.
Mrs. Dorothy Grotos, Arlington, Va.
Miss Margaret Dietz, Lovettsville, Va.
Dr. James H. Gilford, Frederick, Md.
Mr. Lorenzo W. Jacobs, Jr., Washington, D.C.
Mr. Silas F. Starry, Shepherdstown, W. Va.

Mr. Rockwood H. Foster, Washington, D.C.
Mr. R. Lee Downey, Williamsport, Md.
Mr. John C. Frye, Gapland, Md.

Matters to be discussed at this meeting include:

1. Access to the town of Brunswick campground.
2. Harpers Ferry road improvements.
3. Georgetown planning activities.
4. Naming of special areas of the park.
5. Cumberland terminus.
6. Williamsport basin status.
7. Reorganization of the Heritage Conservation and Recreation Service.
8. Palisades wayside interpretive exhibit plan.
9. Great Falls development concept plan status.
10. Washington County Sanitary Commission request.
11. Notice of final action, WSSC and Fairfax County Water Authority, COE notice July 21, 1978.
12. Proposed deck replacement and median closure, I-495, Potomac River and C. & O. Canal.
13. Joint report: Pennyfield Level No. 22 project.
14. Future status of Commission (terms).

The meeting will be open to the public. Any member of the public may file with the committee a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact William R. Failor, Superintendent, C. & O. Canal National Historical Park, P.O. Box 4, Sharpsburg, Md. 21782, telephone 301-948-5641 or 301-432-2231. Minutes of the meeting will be available for public inspection 4 weeks after the meeting at Park Headquarters, Sharpsburg, Md.

Dated: September 15, 1978.

MANUS J. FISH, JR.,
Regional Director, National Capital Region.

[FR Doc. 78-26958 Filed 9-25-78; 8:45 am]

[4310-70]

DESERT NATIONAL SCENIC TRAIL FEASIBILITY STUDY

Notice of Intent

Notice is hereby given that the National Park Service will hold a series of 11 public meetings in 5 western States in late October and November to brief interested individuals, organizations, and other government agencies on the progress of the Desert National Scenic Trail feasibility study and to receive public comments. The meeting dates, locations, and times are as follows:

Oct. 31, 1978, Phoenix, Ariz., 7:30 p.m., State Capitol, Room 800, 1700 West Washington.
Nov. 1, 1978, Lake Havasu City, Ariz., 7:30 p.m., Lake Havasu City High School, 2675 Palo Verde.
Nov. 2, 1978, Yuma, Ariz., 7:30 p.m., Yuma Civic and Convention Center, 1440 Desert Hills Drive.
Nov. 7, 1978, Reno, Nev., 7:30 p.m., Holiday Inn Downtown, 1000 East 6th Street.
Nov. 9, 1978, Las Vegas, Nev., 7:30 p.m., Environmental Protection Agency Building, 944 East Harmon.
Nov. 13, 1978, Idaho Falls, Idaho, 7:30 p.m., Intermountain Science Experience Center, 1776 Science Center Drive.
Nov. 14, 1978, Twin Falls, Idaho, 7:30 p.m., Blue Lakes Inn, 1357 Blue Lakes Boulevard.
Nov. 15, 1978, Boise, Idaho, 7:30 p.m., Boise State University, Student Union Building, University Drive.
Nov. 17, 1978, Burns, Oreg., 7:30 p.m., Harney County Historical Society, 18 West D Street.
Nov. 21, 1978, Riverside, Calif., 7:30 p.m., Raincross Square, 3443 Orange Street.
Nov. 28, 1978, Portland, Oreg., 7:30 p.m., Travelodge at the Coliseum, 1441 North East 20th Avenue.

Persons attending the meetings will be provided with an information booklet containing a response section in which they may summarize their views on the Desert Trail.

Those unable to attend one of the public meetings may participate in the planning process by obtaining a copy of the information booklet from the Regional Director, Western Regional Office, Attention: Desert Trail Study, National Park Service, P.O. Box 36063, San Francisco, Calif. 94102. Response sections should be returned to the above address by December 30, 1978.

Dated: September 14, 1978.

JOHN H. DAVIS,
Acting Regional Director, Western Region, National Park Service.

[FR Doc. 78-26960 Filed 9-25-78; 8:45 am]

[4310-70]

National Park Service

[INT DES 78-38]

PROPOSED GENERAL MANAGEMENT PLAN YOSEMITE NATIONAL PARK, CALIF.

Availability of Draft Environmental Statement

Pursuant to section 102(2)(c) of the National Environmental Policy Act, the Department of the Interior has prepared a draft environmetal statement for the proposed general management plan, Yosemite National Park, Calif.

The statement considers a proposed general management plan for Yosemite National Park that will guide overall park management and development for approximately 15 years, including specific plans for all developed areas within the park. Additions to the recommended wilderness plan are also proposed.

Written comments on the environmental statement are invited and will be accepted for a period of ninety (90) days following publication of this notice. Comments should be addressed to the Superintendent, Yosemite National Park.

Copies of the draft environmental statement are available from or for inspection at the following locations:

Western Regional Office, National Park Service, 450 Golden Gate Ave., San Francisco, Calif. 94102.
Los Angeles Field Office, National Park Service, Room 1013, New Federal Bldg., Los Angeles, Calif. 90012.
Yosemite National Park, P.O. Box 577, Yosemite, Calif. 95389.

Dated: September 21, 1978.

LARRY E. MERRIOTTO
Deputy Assistant Secretary of the Interior.

[FR Doc. 78-26980 Filed 9-25-78; 8:45 am]

[4310-70]

INDIANA DUNES NATIONAL LAKESHORE ADVISORY COMMISSION

Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Indiana Dunes National Lakeshore Advisory Commission will be held at 10 a.m., c.d.t., on Friday, October 20, 1978, at the Indiana Dunes National Lakeshore Tremont/Furnessville Visitor Center, Intersection of State Park Road and U.S. Highway 12, Chesterton, Ind.

The Commission was established by Pub. L. 89-761 to meet and consult with the Secretary of the Interior on matters related to the administration and development of the Indiana Dunes National Lakeshore.

The members of the Commission are as follows:

Mr. Harry W. Frey (Chairman)
Dr. Lynton K. Caldwell
Mrs. Anna P. Carlson
Mr. Neil P. Frankel
Mr. John A. Hillenbrand II
Mrs. Barbara R. Johnson
Mr. William L. Lieber
Mr. Lawrence Miller
Mr. John R. Schnurlein
Mr. Norman E. Tufford
Mr. George H. Williams

Matters to be discussed at this meeting include:

1. Report on 1978 legislation.
2. Status of land acquisition.
3. General management plan progress report.
4. Overview of 1978 operations and projection of 1979 programs.
5. Report of poll on expansion legislation.
6. Periphery zoning for the Lakeshore.

The meeting will be open to the public. Any member of the public may file with the Commission prior to the meeting a written statement concerning the matters to be discussed. Persons wishing further information concerning the meeting or who wish to submit written statements, may contact James R. Whitehouse, Superintendent, Indiana Dunes National Lakeshore, Route 2, Box 139-A, Chesterton, Ind. 46304, telephone 219-926-7561.

Minutes of the meeting will be available for public inspection 4 weeks after the meeting at the office of the Indiana Dunes National Lakeshore located at the intersection of State Park Road and U.S. Highway 12, Chesterton, Ind.

Dated: September 13, 1978.

RANDALL R. POPE,
Acting Regional Director,
Midwest Region.

[FR Doc. 78-26959 Filed 9-25-78; 8:45 am]

[7020-02]

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-55]

CERTAIN NOVELTY GLASSES

Change of Commission Investigative Attorney

Mr. David J. Dir is designated Commission investigative attorney for Investigation No. 337-TA-55, Certain Novelty Glasses, replacing Mr. Steven David Moskowitz. The service of all papers on the Commission investigative attorney should henceforth be served upon Mr. Dir, effective Monday, September 25, 1978.

The Secretary is requested to publish this notice in the FEDERAL REGISTER.

EARL LEVY,
Deputy Director,
Office of Legal Services.

SEPTEMBER 21, 1978.

[FR Doc. 78-27057 Filed 9-25-78; 8:45 am]

[7020-02]

[Investigation 337-TA-46]

CERTAIN TELESCOPIC SIGHT MOUNTS

Commission Determination, Order and Memorandum Opinion

Procedural history. On June 26, 1978, Complainant Clear View Manufacturing Co. and the Commission investigative attorney jointly filed, pursuant to § 210.51 of the Commission's rules of practice and procedure [1] (hereinafter "Rules"), a motion to terminate this investigation as to all issues and with respect to all respondents (see motion to terminate filed June 26, 1978). The Presiding Officer, acting in conformity with §§ 210.51(c) and 210.53 of the rules,[2] concluded that no present violation of section 337 of the Tariff Act of 1930 [3] (hereinafter "section 337") exists with respect to the importation of the telescopic sight mounts which are the subject of the Commission's investigation, and recommended, by Order of August 21, 1978 (see Order Recommending Termination of Investigation, filed Aug. 21, 1978), that the Commission (1) determine that there is no violation of section 337 in the importation or sale in the United States of certain telescopic sight mounts, and (2) grant the joint motion to terminate the investigation. It is the purpose of this Determination, Order and Memorandum Opinion to consider the Presiding Officer's Recommendation and to rule on the joint motion to terminate.

Determination and Order. Having considered (1) the joint motion to terminate (motion docket No. 46-2), and (2) the Presiding Officer's recommendation of August 21, 1978, in the context of the record in the instant investigation, the Commission determines that no violation of section 337 presently exists by reason of the importation or sale in the United States of the telescopic sight mounts which are the subject of the Commission's investigation.

Therefore, the Commission grants the joint motion to terminate and orders that the instant investigation be and hereby is terminated with respect to all issues and all respondents.

Opinion. This is a patent-based case. The amended complaint filed with the Commission alleged that unfair methods of competition and unfair acts existed in the importation of certain telescopic sight mounts into the United States by reason of the alleged coverage of such articles by claims of two United States patents licensed to complainant. [4]

The joint motion to terminate the investigation was accompanied by affidavits executed by officers of respondents Tomy Enterprises Co., Ltd. (hereinafter "Tomy"), and Ednar, Inc. These affidavits, which are identical in form, state that the respondents in question (1) have discontinued exporting telescopic sight mounts to the United States covered by claims of the '565 and '633 patents, and (2) intend to export no more such sight mounts to the United States without the written permission of the complainant.

No similar affidavit has been received from the third respondent in this investigation, Shilba-Shoji Trading Co. (hereinafter "Shilba-Shoji"). However, inasmuch as Tomy is believed to be Shilba-Shoji's only source of supply for sight mounts of the type produced by complainant, and in view of the fact that Shilba-Shoji's United States importer, former respondent L.E.S., has given assurances that it will no longer import allegedly infringing sight mounts into the United States (see Commission Order and Opinion issued May 25, 1978, terminating L.E.S. as a respondent in this investigation), the Commission is of the view that this investigation should be terminated. The Commission therefore has determined to order the termination of the instant investigation as to all issues and all respondents.

Issued: September 21, 1978.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-27059 Filed 9-25-78; 8:45 am]

[1] 19 CFR 210.51.

[2] 19 CFR 210.51(c) and 210.53.

[3] 19 U.S.C. 1337.

[4] U.S. Letters Patents 3,835,565 (hereinafter "the '565 patent") and Des. 232,633 (hereinafter "the '633 patent").

[4410-01]

DEPARTMENT OF JUSTICE

U.S. CIRCUIT JUDGE NOMINATING COMMISSION, DISTRICT OF COLUMBIA PANEL

Meeting

Chairman: Joseph Tydings.

The District of Columbia Panel of the U.S. Nominating Commission will meet on Saturday, November 4, 1978, at 9 a.m., to review applications and to make up an interview schedule.

(1) A second meeting will be held on November 12, 1978, at 10 a.m., to conduct interviews and to make final selections.

(2) Both meetings will be held in the offices of Danzansky, Dickey, Tydings, Quint and Gordon, 1120 Connecticut Avenue NW., Washington, D.C. These meetings will be closed to the public pursuant to Pub. L. 92-463, section 10(D) as amended. (Cf. 5 U.S.C. 552b (c)(6).)

JOSEPH A. SANCHES,
Advisory Committee,
Management Officer.

SEPTEMBER 19, 1978.

[FR Doc. 78-26986 Filed 9-25-78; 8:45 am]

[4410-01]

U.S. CIRCUIT JUDGE NOMINATING COMMISSION, SIXTH CIRCUIT PANEL

Meeting

Chairman: Wilson W. Wyatt.

The Sixth Circuit Panel of the U.S. Circuit Judge Nominating Commission has been activated to nominate candidates to fill one vacancy on the Sixth

Circuit Court of Appeals. The Panel's schedule of meetings is as follows:

(1) The first meeting will be held on October 17, 1978, at 11 a.m., on the 28th floor of Citizens Plaza, Fifth and Jefferson Streets, Louisville, Ky. The morning session will be open to the public. The afternoon session will be devoted to discussion of candidates and will be closed to the public pursuant to Pub. L. 92-463, section 10(D) as amended. (Cf. 5 U.S.C. 552b (c)(6).)

(2) The second meeting will be held on November 1, 1978, at 9 a.m., in room 501 of the U.S. Post Office and Federal Building, Cincinnati, Ohio. The purpose of this meeting is to consider nominations and the meeting will be closed to the public pursuant to Pub. L. 92-463, section 10(D) as amended. (Cf. 5 U.S.C. 552b (c)(6).) If necessary, the meeting will be continued through November 2, 1978.

JOSEPH A. SANCHES,
Advisory Committee, Management Officer.

SEPTEMBER 19, 1978

[FR Doc. 78-26987 Filed 9-25-78; 8:45 am]

[4410-09]

Drug Enforcement Administration

MANUFACTURE OF CONTROLLED SUBSTANCES

Application

Pursuant to 21 U.S.C. 823(a)(1), and § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on August 7, 1978, Pharmaceuticals Division, Ciba-Geigy Corp., 556 Morris Avenue, Summit, N.J. 07901, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the schedule II controlled substance methylphenidate (1724).

Any other such applicant, and any person who is presently registered with DEA to manufacture such substance, may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street NW., Washington, D.C. 20537, Attention: DEA FEDERAL REGISTER Representative (Room 1203), and must be filed no later than October 26, 1978.

Dated: September 19, 1978.

PETER B. BENSINGER,
Administrator, Drug Enforcement Administration.

[FR Doc. 78-27005 Filed 9-25-78; 8:45 am]

[4410-09]

MANUFACTURE OF CONTROLLED SUBSTANCES

Application

Pursuant to 21 U.S.C. 823(a)(1), and § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on August 21, 1978, Eli Lilly and Co., Tippecanoe Lab., Box 685 Lilly Road, Lafayette, Ind. 47902, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the schedule II controlled substances methadone (9250) and methadone-intermediate (9254).

Any other such applicant, and any person who is presently registered with DEA to manufacture such substances, may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street NW., Washington, D.C. 20537, Attention: DEA FEDERAL REGISTER Representative (Room 1203), and must be filed no later than October 26, 1978.

Dated: September 19, 1978.

PETER B. BENSINGER,
Administrator, Drug Enforcement Administration.

[FR Doc. 78-27006 Filed 9-25-78; 8:45 am]

[4410-09]

[Docket No. 78-10]

THOMAS EDWARD BENNETT, D.O.

Revocation of Registration

On May 25, 1978, the Administrator of the Drug Enforcement Administration (DEA) issued an Order to Show Cause to Thomas Edward Bennett, D.O. (Respondent), of Houston, Tex. The Order to Show Cause proposed to revoke the Respondent's DEA Certificate of Registration, AB7288283, and to deny his then pending application for registration, for reason that on May 25, 1978, following his plea of nolo contendere in the U.S. District Court for the Southern District of Texas, the Respondent was convicted of unlawfully distributing and dispensing Schedule II controlled substances and of a related conspiracy charge in violation of 21 U.S.C. 841(a)(1) and 846, felony offenses within the meaning and intent of 21 U.S.C. 824(a)(2). Simultaneously, pursuant to 21 U.S.C. 824(d), the Administrator ordered that the Respondent's registration be suspended pending the final outcome of these proceedings.

The Respondent requested a hearing on the issues raised by the Order to Show Cause and this matter was placed on the docket of Administrative Law Judge Francis L. Young. Subsequent to the filing of written prehearing statements, but before an evidentiary hearing in this matter could be held, counsel for the Respondent and for DEA entered into a stipulation pursuant to which this matter might be disposed of without necessitating further proceedings. On August 24, 1978, the Administrative Law Judge accepted the stipulation and recommended that the Administrator issue a final order not inconsistent with the terms agreed upon by counsel.

The Administrator has reviewed the record of these proceedings and, pursuant to the provisions of 21 CFR 1316.66, hereby publishes his final order in this matter.

The Respondent has stipulated to the fact of his conviction of felony offenses relating to controlled substances and has consented to the revocation of his DEA registration as well as to the denial of his pending application for registration. The Administrator concludes that there is a lawful or statutory basis for such revocation and denial. Therefore, pursuant to the authority granted to the Attorney General by sections 303 and 304 of the Controlled Substances Act (21 U.S.C. 823 and 824), and redelegated to the Administrator of the Drug Enforcement Administration, the Administrator hereby orders that the Respondent's pending application for registration be denied and that DEA Certificate of Registration AB7288283 be revoked, effective immediately.

The U.S. District Court for the Southern District of Texas has placed the Respondent on supervised probation for a period of 5 years. The successful completion of this term of probation may indicate that the Respondent can once more be entrusted with the handling and prescribing of controlled substances. Therefore, on May 25, 1983, or as soon thereafter as the Respondent may make application for such registration, provided that he has successfully completed his period of probation, and further provided that he is appropriately licensed and authorized to handle controlled substances under the laws of the State in which he is then practicing, the Drug Enforcement Administration will give favorable consideration to the Respondent's application for registration in Schedules IV and V of the Controlled Substances Act.

On May 25, 1984, or as soon thereafter as the Respondent may make application for such registration, again predicated upon his being appropriately licensed and authorized to handle such controlled substances under State law, DEA will give favorable consideration to the Respondent's application for registration in Schedule III as well as Schedules IV and V.

On May 25, 1985, again provided that the Respondent is properly licensed and authorized to apply therefor, the Drug Enforcement Administration will consider Respondent's application for registration in Schedule II. In determining whether or not such registration would be in the public interest, the Respondent has stipulated that DEA may consider such factors as the Respondent's experience in handling controlled substances in Schedules III through V; his success, or lack thereof, in rehabilitation; the nature of his practice; and his ability to cope with the pressures which a registration to prescribe Schedule II controlled substances may bring.

Dated: September 19, 1978.

PETER B. BENSINGER,
Administrator,
Drug Enforcement Administration.

[FR Doc. 78-27007 Filed 9-25-78; 8:45 am]

[4510-27]

DEPARTMENT OF LABOR

Office of Federal Contract Compliance Programs

EQUAL EMPLOYMENT OPPORTUNITY

Changes in Preaward Clearance Requests under Executive Order 11246

Pursuant to President Carter's decision to consolidate programs implementing Executive Order 1246, as amended, in the Office of Federal Contract Compliance Programs (OFCCP), Order No. 1 (Revised), October 1, 1977, which assigned compliance responsibilities to compliance agencies based on standard Industrial Classifications, is being rescinded effective October 1, 1978. The Heads of Agencies Memorandum which follows authorizes compliance agencies to continue exercising authority over reviews and investigations already under way until October 8, 1978. Effective October 2, 1978, however, requests by procurement officials for preaward clearances shall be made to OFCCP. The Memorandum also informs procuring agencies of the Federal Government regarding proper contact points for preaward clearances beginning October 2, 1978. The Memorandum provides that beginning October 2, 1978, all requests for preaward clearances under E.O. 11246 must be directed to the OFCCP Regional Office for the region in which the contractor facility is located, and lists the addresses of the various OFCCP Regional Offices.

Dated: September 20, 1978.

RICHARD DEVINE,
Deputy Director, Office of Federal Contract Compliance Programs.

To: Heads of all agencies.
From: Richard Devine, Deputy Director, Office of Federal Contract Compliance Programs.
Subject: Fiscal year 1979 preaward clearance requests.

SEPTEMBER 20, 1978.

President Carter has announced his intent to issue an Executive Order consolidating compliance agency responsibilities under Executive Order 11246, as amended, into the Office of Federal Contract Compliance Programs (OFCCP), Employment Standards Administration (ESA), Department of Labor. The effective date for the new issuance will be October 8, 1978, a change from the originally announced date of October 1, 1978, designed to match the full consolidation with the payroll periods of most compliance agencies.

Effective October 1, 1978, Order No. 1 (revised) of October 1, 1977 is rescinded. Compliance agencies are authorized to continue exercising authority over reviews or investigations already underway until October 8, 1978.

Beginning October 2, 1978, the first business day of the new fiscal year, all requests for preaward clearances under Executive Order 11246 must be directed to the OFCCP Regional Office for the region in which the contractor facility is located, as indicated below.

REGIONAL OFFICE

Region	States	Address and Telephone
I	Maine New Hampshire Vermont Massachusetts Rhode Island Connecticut	Associate Regional Administrator for OFCCP/ESA-O, U.S. Department of Labor, JFK Federal Office Bldg., Room 1612-C, Boston, Mass. 02203, 617-223-4517.
II	New York New Jersey Puerto Rico Virgin Islands	Associate Regional Administrator for OFCCP/ESA-O, U.S. Department of Labor, 60 Hudson St., New York, N.Y. 10013, Attn: DCRN-V, 212-374-9231.
III	Pennsylvania Maryland Delaware Virginia West Virginia District of Columbia	Associate Regional Administrator for OFCCP/ESA-O, U.S. Department of Labor, Gateway Bldg., Room 15434, 3535 Market St., Philadelphia, Pa. 19104, 215-596-1213.
IV	North Carolina South Carolina Kentucky Tennessee Mississippi Alabama Georgia Florida	Associate Regional Administrator for OFCCP/ESA-O, U.S. Department of Labor, 1371 Peachtree St., Room 729, Atlanta, Ga. 30309, 404-881-4211.
V	Ohio Indiana Michigan Illinois Wisconsin Minnesota	Associate Regional Administrator for OFCCP/ESA-O, U.S. Department of Labor, 230 South Dearborn St., Room 1614, Chicago, Ill. 60604, 312-353-7119.
VI	Louisiana Arkansas Oklahoma Texas New Mexico	Associate Regional Administrator for OFCCP/ESA-O, U.S. Department of Labor, 555 Griffin Square Bldg., Room 506, Dallas, Tex. 75202, 214-767-4775 or 1.
VII	Missouri Iowa Nebraska Kansas	Associate Regional Administrator for OFCCP/ESA-O, U.S. Department of Labor, Federal Office Bldg., Room 2000, 911 Walnut St., Kansas City, Mo. 64106, 816-374-5384.
VIII	North Dakota South Dakota Montana Wyoming Colorado Utah	Associate Regional Administrator for OFCCP/ESA-O, U.S. Department of Labor, Federal Office Bldg., Room 14431, 1961 Stout St., Denver, Colo. 80202, 303-837-5011.
IX	California Nevada Arizona Hawaii Guam	Associate Regional Administrator for OFCCP/ESA-O, U.S. Department of Labor, Federal Office Bldg., Room 10431, 450 Golden Gate Ave., San Francisco, Calif. 94102, 415-556-3597.
X	Washington Oregon Idaho	Associate Regional Administrator for OFCCP/ESA-O, U.S. Department of Labor, Federal Office Bldg., Room 4095, 909 First Ave., Seattle, Wash. 98174, 206-442-4508.

Heads of agencies are asked to transmit this information to all procuring activities for implementation on October 2, 1978. To further facilitate general awareness of change in the preaward clearance system, this Heads of Agencies Memorandum is being published in the FEDERAL REGISTER.

[FR Doc. 27017 Filed 9-25-78; 8:45 am]

[4510-28]

Office of the Secretary

[TA-W-2397]

AMERICAN BILTRITE, INC., BOSTON INDUSTRIAL PRODUCTS DIVISION

Negative Determination Regarding Application for Reconsideration

On August 16, 1978, the president of the local union of United Rubber, Cork, Linoleum & Plastic Workers of America requested administrative reconsideration of the Department of Labor's negative determination regarding eligibility to apply for worker adjustment assistance. This determination was published in the FEDERAL REGISTER on July 18, 1978 (43 FR 30922).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered, that the determination complained of was erroneous;

(2) If it appears that the determination complained was based on a mistake in the determination of facts previously considered; or

(3) If, in the opinion of the certifying officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

In his application, the president of the local union states his belief that workers at the Cambridge plant have been effected by imports. He specifically mentions the product, steel belts, as having been all but completely eliminated at American Biltrite due to import competition. This statement by the President provides no new information, which would suggest that the Department's original determination was in error. Production of steel belts was taken into consideration in the investigation of the Cambridge plant. It was found that steel belts accounted for only 1.1 percent of company sales in 1976 and 1.2 percent of company sales in 1977. If, as it is claimed in the application, this product accounted for a higher percentage of sales prior to 1976, it would have been of no relevance to a certification of this case given the fact that the petition was dated September 19, 1977, and that the law would have allowed us to, in case of a certification, set an impact date of no more than 1 year prior to that date.

CONCLUSION

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C., this 11th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-26871 Filed 9-25-78; 8:45 am]

[4510-28]

[TA-W-3484]

ASARCO, INC.

Certification Regarding Eligibility To Apply for Worker Ajustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3484: Investigation regarding certification of eligibility to apply for adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on April 11, 1978, in response to a worker petition received on March 31, 1978, which was filed by the United Steelworkers of America on behalf of workers and former workers producing copper, lead, zinc, antimony, and cadmium at the El Paso Smelting Works of ASARCO, Inc., El Paso, Tex. During the course of the investigation it was established that antimony is not produced and that the cadmium produced is insignificant.

The notice of investigation was published in the FEDERAL REGISTER on May 2, 1978 (43 FR 18790). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of ASARCO, Inc., the Department of Commerce, the United States International Trade Commission, the U.S. Department of the Interior, the American Metals Market, Metal Bulletin, Metals Week, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of refined copper increased from 147 thousand short tons in 1975 to 384 thousand short tons in 1976 and then to 391 thousand short tons in 1977. Imports increased from 66 thousand short tons in the first quarter of 1977 to 150 thousand short tons in the first quarter of 1978. The imports to domestic production ratio increased from 8.6 percent in 1975 to 21.0 percent in 1976 and then to 22.2 percent in 1977. The imports to domestic production ratio increased from 13.1 percent in the first quarter of 1977 to 34.1 percent for the same period in 1978.

Imports of copper are affected by the differential between the domestic producers price of copper and the price established by the LME (London Metal Exchange). When the LME price drops more than the estimated transportation cost of 5-8 cents per pound below the domestic producers price, the demand for imported copper increases. During May and June 1977, the price was almost 11 cents per pound below the domestic producers price and in July and August 1977, the LME price was almost 12 cents per pound below the domestic producers price. At the same time, the abundant supply of copper stocks in the foreseeable future provides no reason for domestic consumers of copper to maintain ties with domestic producers for purposes of a guarantee against copper shortages. Consequently, imports of refined copper increased in 1977 when compared to 1976 and increased 127.3 percent in the first quarter of 1978 when compared to the same period in 1977, when many domestic copper producers curtailed production because of the depressed market price of copper.

Price pressure from imported copper has reduced the ability to profitably mine domestic ore and convert it to copper concentrates and then to refined copper. The current domestic market price of copper is 64 cents per pound. Industry sources indicate that the production costs of domestic copper mines are equal to or higher than the market price. Consequently, domestic producers have been either breaking even or operating at a loss.

U.S. imports of refined and recovered lead increased from 101 thousand short tons in 1975 to 147 thousand short tons in 1976 and then increased to 264 thousand short tons in 1977. Imports increased from 47 thousand short tons in the first quarter of 1977 to 66 thousand short tons for the same period in 1978. The imports to domestic production ratio increased from 7.8 percent in 1975 to 10.7 percent in 1976 and then to 19.7 percent in 1977. The imports to domestic production ratio increased from 14.1 percent in the first quarter of 1977 to 19.5 percent for the same period in 1978.

Imports of lead are affected by the differential between the domestic producers price and the price of lead on the London Metal Exchange (LME). Generally prices charged by domestic

producers range from 2 to 4 cents above LME prices. When the LME price drops more than 2 to 4 cents per pound below the domestic producers' price, there is increased demand for imported lead. In August 1977 there was a 6-cent difference in lead prices (31 cents U.S. versus 25 cents LME), which may have prompted some U.S. customers to purchase abroad. Also from February-April 1978 lead prices on the LME have ranged from 6.5-7.0 cents per pound lower than those charged by U.S. producers. Consequently while domestic production of lead has remained fairly constant in 1977 and in the first quarter of 1978, imports of refined and recovered lead increased 79.6 percent from 1976 to 1977 and 40.4 percent in the first quarter of 1978 when compared to the same period in 1977.

U.S. imports of slab zinc increased from 380,437 short tons in 1975 to 714,489 short tons in 1976 before declining to 555,147 short tons in 1977. Imports increased from 121,120 short tons in the first quarter of 1977 to 155,998 short tons for the same period in 1978. The imports to domestic production ratio increased from 76.7 percent in 1975 to 127.0 percent in 1976 and to 127.9 percent in 1977. The imports to domestic production ratio increased from 94.0 percent in the first quarter of 1977 to 152.1 percent for the same period in 1978.

Imports of zinc are affected by the differential between the domestic price of zinc established by U.S. producers and the price established by the LME (London Metal Exchange). When the LME price drops more than the estimated transportation cost of 5 cents per pound below the producers' price, the demand for imported zinc increases. Except for brief periods in the spring of 1976 and March 1977, the price differential between U.S. producers and the LME has exceeded 5 cents per pound. The average U.S. producer price for zinc was 7.6 cents higher than the average LME zinc price in 1977 and 7.1 cents higher in the first quarter of 1978. This is well above the 5-cent limit at which domestic suppliers can remain competitive. Consequently, in the first quarter of 1978 when many domestic zinc producers curtailed production because of the depressed market price of zinc, imports of slab zinc increased 28.8 percent when compared to the same period in 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the copper, lead, and zinc produced at the El Paso Smelting Works of ASARCO, Inc., El Paso, Tex., contributed importantly to the decline in sales and production and to the total or partial separation of workers at the facility.

In accordance with the provisions of the Act, I make the following certification:

All workers at the El Paso Smelting Works of ASARCO, Inc., El Paso, Tex., who became totally or partially separated from employment on or after January 1, 1978, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 11th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Adminstration and Planning.

[FR Doc. 78-26872 Filed 9-25-78; 8:45 am]

[4510-28]

[TA-W-3505]

BENTLEY KNITWEAR CORP.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3505: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on April 13, 1978, in response to a worker petition received on March 27, 1978, which was filed by International Ladies Garment Workers Union on behalf of workers and former workers producing women's sportswear at Bentley Knitwear Corp., Brooklyn, N.Y.

The notice of investigation was published in the FEDERAL REGISTER on April 25, 1978 (43 FR 17552). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Bentley Knitwear Corp., its customers, the U.S. Department of Commerce, the United States International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

The Department's investigation revealed that U.S. imports of women's, misses', and children's sweaters increased from 8,965 thousand dozen in 1975 to 9,613 thousand dozen in 1976 and decreased to 9,520 thousand dozen in 1977. Imports increased from 816 thousand dozen in the first quarter of 1977 to 878 thousand dozen in the first quarter of 1978. The ratio of imports to domestic production increased from 115.1 percent in 1975 to 141.9 percent in 1976 and decreased to 140.8 percent in 1977.

U.S. imports of women's, misses' and children's slacks and shorts increased from 10,067 thousand dozen in 1975 to 11,040 thousand dozen in 1976 to 11,662 thousand dozen in 1977. Imports increased to 4,545 thousand dozen in the first quarter of 1978 compared to 3,374 thousand dozen in the first quarter of 1977. The ratio of imports to domestic production increased from 35.2 percent in 1975 to 36.8 percent in 1976 to 38.0 percent in 1977.

U.S. imports of women's, misses' and children's blouses and shirts increased from 26,113 thousand dozen in 1975 to 30,273 thousand dozen in 1976 to 30,849 thousand dozen in 1977. Imports increased to 10,186 thousand dozen in the first quarter of 1978 compared to 8,280 thousand dozen in the first quarter of 1977. The ratio of imports to domestic production decreased from 70.4 percent in 1975 to 70.3 percent in 1976 to 69.7 percent in 1977.

U.S. imports of women's, misses' and children's skirts increased from 517 thousand dozen in 1975 to 791 thousand dozen in 1976 and decreased to 654 thousand dozen in 1977. Imports increased to 296 thousand dozen in the first quarter of 1978 compared to 103 thousand dozen in the first quarter of 1977. The ratio of imports to domestic production increased from 10.8 percent in 1975 to 14.2 percent in 1976 and decreased to 10.5 percent in 1977.

U.S. imports of women's, misses' and children's suits decreased from 412 thousand dozen in 1975 to 408 thousand dozen in 1976 to 384 thousand dozen in 1977. Imports increased to 104 thousand dozen in the first quarter of 1978 compared to 62 thousand dozen in the first quarter of 1977. The ratio of imports to domestic production decreased from 12.2 percent in 1975 to 11.4 percent in 1976 to 10.5 percent in 1977.

U.S. imports of women's, misses' and children's dresses decreased from 1,655 thousand dozen in 1975 to 1,614 thousand dozen in 1976 to 1,420 thousand dozen in 1977. Imports increased to 403 thousand dozen in the first quarter of 1978 compared to 371 thousand dozen in the first quarter of 1977. The ratio of imports to domestic production remained at 8.0 percent from 1975 to 1976 and deceased to 6.7 percent in 1977.

Customers surveyed representing a significant proportion of the subject firm's sales in 1976 decreased their purchases from Bentley Knitwear Corp. in 1977 compared to 1976. These

customers in the same period increased their contracts with foreign sources and increased their purchases of imported women's sportswear.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with the women's sportswear produced at Bentley Knitwear Corp., Brooklyn, N.Y., contributed importantly to the decline in sales or production and to the total or partial separations or workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers at Bentley Knitwear Corp., Brooklyn, N.Y., who became totally or partially separated from employment on or after March 17, 1977, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 11th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-26873 Filed 9-25-78; 8:45 am]

[4510-28]

[TA-W-3886]

BIRK TRANSFER, INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3886: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on June 22, 1978, in response to a worker petition received on April 25, 1978, which was filed on behalf of workers and former workers of Birk Transfer, Inc., Conomaugh, Pa., engaged in transporting materials at the Johnstown, Pa., plant of Bethlehem Steel Corp.

The notice of investigation was published in the FEDERAL REGISTER on July 7, 1978 (43 FR 29365). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from Birk Transfer, Inc., and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. The Department has determined that services are not "articles" within the meaning of section 222 of the Act and that independent firms for which the subject firm provides services cannot be considered to be the "workers firm."

Birk Transfer Co., Inc., was founded in 1966 and incorporated in Pennsylvania. The company has no parent firm. Birk Transfer provides transportation services within the Johnstown, Pa., plant of Bethlehem Steel Corp. The subject firm transports materials from point to point within the steel plant.

Workers at Birk Transfer are engaged in providing transportation services and do not produce an article within the meaning of section 222 (3) of the Act.

Birk Transfer and Bethlehem Steel Corp. have no controlling interest in each other.

All workers engaged in providing transportation services at Birk Transfer, Inc., are employed by that firm. All personnel actions and payroll transactions are controlled by Birk Transfer Co., Inc. All employment benefits are provided and maintained by Birk Transfer. Workers are not at any time under employment or supervision by Bethlehem Steel Corp. Thus, Birk Transfer must be considered the "workers firm."

CONCLUSION

After careful review, I determine that all workers of Birk Transfer Co., Inc., Conomaugh, Pa., are denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 11th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-26874 Filed 9-25-78; 8:45 am]

[4510-28]

[TA-W-3349]

BOTANY 500

Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on March 15, 1978, in response to a worker petition received on February 21, 1978, in response to a worker petition received on February 21, 1978, which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing men's tailored clothing at Botany 500, Philadelphia, Pa.

Notice of Investigation was published in the FEDERAL REGISTER on April 7, 1978 (43 FR 14775). No public hearing was requested and none was held.

The petitioner, an official of the Amalgamated Clothing and Textile Workers Union requested withdrawal of petition TA-W-3349 in a letter dated July 20, 1978.

Signed at Washington, D.C. this 6th day of September 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-26875 Filed 9-25-78; 8:45 am]

[4510-28]

[TA-W-3855]

BRIDON AMERICAN CORP.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3855: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on June 19, 1978 in response to a worker petition received on June 12, 1978 which was filed by the Bridon American Corp. on behalf of all workers of the Folcroft, Pa. service center of the Bridon American Corp.

The notice of investigation was published in the FEDERAL REGISTER on June 30, 1978 (43 FR 28581). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Bridon American Corp., its customers, the U.S. Department of Commerce, the United States International Trade Commission, Industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. It is concluded that all of the group eligibility criteria have been met.

Average facility employment declined in the first half of 1978 compared to the like 1977 period. The facility was permanently closed on June 2, 1978. There weren't any layoffs at the facility in 1977 or in the first quarter of 1978. Layoffs began at the Folcroft facility in April, 1978.

The Folcroft facility is a service and distribution center for wire rope which is produced by the Bridon American Corp. All of the wire rope produced by the company is shipped to the distribution centers where the wire rope is cut to the individual customers' requirements. The wire rope is then

shipped from the center to the customers. The functions performed at the centers are integral to the company's production of wire rope. Workers engaged in employment related to the production of a significant percentage of the company's total 1977 production of wire rope who became totally or partially separated from employment on or after October 31, 1976, were certified eligible to apply for adjustment assistance benefits on April 14, 1978. This determination will expire Aprl 14, 1980 unless terminated earlier by the Secretary of Labor. See Department determination TA-W-2609.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the wire rope produced by the Bridon American Corp. have contributed importantly to the total or partial separation of workers at the Folcroft, Pa. service center of the Bridon American Corp. as required for certification under section 222 of the Trade Act of 1974. In accordance with the provisions of the Act, I make the following certification:

All employees of the Folcroft, Pa. service center of the Bridon, American Corp. who became totally or partially separated from employment on or after April 1, 1978 are eligible to apply for adjustment assistance benefits under title, II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 15th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-26876 Filed 9-26-78; 8:45 am]

[4510-28]

[TA-W-3506]

CATH-GAR TEXTILE CO., INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3506: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on April 13, 1978 in response to a worker petition received on April 6, 1978 which was filed on behalf of workers and former workers producing fabrics for the home sewing trade and the apparel industry at Cath-Gar Textile Co., Inc., Clifton, N.J.

The notice of investigation was published in the FEDERAL REGISTER on April 25, 1978 (43 FR 17552). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Cath-Gar Textile Co., Inc., its customers, the American Textile Manufacturers Institute, the U.S. Department of Commerce, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Imports of finished fabric (bleached, dyed, and printed) decreased from 464 million square yards in 1976 to 453 million square yards in 1977. The ratio of imports to domestic production has been below 2.0 percent each year from 1974 through 1976.

Customers who were surveyed did not increase purchases of imported finished fabric while decreasing purchases from Cath-Gar Textile Co.

CONCLUSION

After careful review I determine that all workers of Cath-Gar Textile Co., Inc., Clifton, N.J. are denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 11th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-26877 Filed 9-26-78; 8:45 am]

[4510-28]

[TA-W-3706]

CHEMICAL METALLURGICAL DIVISION SCM CORP.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3706: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 15, 1978 in response to a worker petition received on May 2, 1978 which was filed on behalf of workers and former workers producing chemicals, powdered metals and process equipment at the Lakehurst, N.J. plant, Chemical Metallurgical Division of SCM Corp. The investigation revealed that ilmenite ore (used in the production of titanium dioxide) was mined at the Lakehurst, N.J. facility.

The notice of investigation was published in the FEDERAL REGISTER on June 27, 1978 (43 FR 27923). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of SCM Corp., the U.S. Department of Commerce, the United States International Trade Commission, the U.S. Bureau of Mines, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations or threat thereof, and to the absolute decline in sales or production.

The Lakehurst, N.J. facility of SCM Corp. was a mine for ilmenite ore. Ilmenite ore is used by SCM in the manufacture of titanium dioxide, which is a pigment used by the paint, paper, plastic and rubber industries.

The mine was acquired in 1960. At that time, its life expectancy was 15 years—i.e., the ore supply of the mine was expected to be exhausted by 1975. In 1978, 18 years after SCM began mining ilmenite ore at the Lakehurst site, the mine was effectively exhausted of its supply of ore. All ore that was economically justified to mine had been taken from this site. The mine was closed at the end of March 1978.

The closure of the Lakehurst mine is attibuted to the depeletion of ore reserves. Changing technology has resulted in a move toward a newer, more modern and efficient process by which titanium dioxide is produced. This newer process utilizes rutile ore either natural or synthesized from ilmenite ore.

CONCLUSION

After careful review, I determine that all workers of the Lakehurst, N.J., mine in the Chemical Metallurgical Division of SCM Corp. are denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 15th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-26878 Filed 9-25-78; 8:45 am]

[4510-28]

[TA-W-3401]

CHINO MINES DIVISION OF KENNECOTT COPPER CORP.

Revised Certification of Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor issued a certification of eligibility to apply for adjustment assistance on August 18, 1978, applicable to all workers of the Chino Mines Division of Kennecott Copper Corp., Hurley, N. Mex., including the Silver City, N. Mex., mine who became totally or partially separated from employment on or after March 1, 1978. The notice of certification was published in the FEDERAL REGISTER on August 25, 1978 (43 FR 38125).

A review of the case revealed that a significant number of the workers were separated from employment in September 1977. These workers were not covered by the original impact date of March 1, 1978.

The intent of the certification is to cover those workers separated in September 1977 importantly because of import competition. The certification, therefore, is revised providing a new impact date of September 1, 1977.

The revised certificated applicable to TA-W-3401 is hereby issued as follows:

All workers at the Chino Mines Division of Kennecott Copper Corp., Hurley, N. Mex., including the Silver City, N. Mex., mine who became totally or partially separated from employment on or after September 1, 1977, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 14th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-26879 Filed 9-25-78; 8:45 am]

[4510-28]

[TA-W-2841]

CHLORIDE PYROTECTOR, INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2841: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on January 4, 1978, in response to a worker petition received on December 16, 1977, which was filed on behalf of workers and former workers producing smoke and heat detectors at the Pyrotector Division of Chloride, Inc., Hingham, Mass.

The investigation revealed that, in addition to smoke and heat detectors, a small quantity of flame detectors for specialized uses are produced. The correct company name is Chloride Pyrotector, Inc.

The notice of investigation was published in the FEDERAL REGISTER on January 27, 1978 (43 FR 3777). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from Chloride Pyrotector, Inc., its customers, the Center for Fire Research of the National Bureau of Standards, the U.S. Department of Commerce, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met.

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Imports of smoke detectors (residential units) increased absolutely in 1976 compared to 1975, and increased both absolutely and relative to domestic production in 1977 compared to 1976.

Imports of commercial smoke detectors decreased absolutely and relatively both in 1976 and in 1977 compared to the previous year.

A sample of customers of Chloride Pyrotector was selected and surveyed. Of those customers who responded, who purchase residential smoke detectors from Pyrotector, all but one purchased no imports. The import purchases of that one customer decreased in value in 1977 compared to 1976.

Of those customers responding to the survey who purchase commercial units from Pyrotector, one reported purchasing imports. These import purchases were made in 1977, and amounted to less that 1 percent of total purchases from all sources by that customer in that year. At the same time, that customer's purchases from Pyrotector increased in 1977 compared to 1976.

CONCLUSION

After careful review I determine that all workers of Chloride Pyrotector, Inc., Hingham, Mass., are denied eligibility to apply for adustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 11th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-26880 Filed 9-25-78; 8:45 am]

[4510-28]

[TA-W-3556]

EVA FISHER DRESS CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3556: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on April 27, 1978 in response to a worker petition received on April 10, 1978 which was filed by the International Ladies' Garment Workers Union on behalf of former workers producing ladies' designer or couture ready-to-wear clothing at Eva Fisher Dress Co., Los Angeles, Calif.

The notice of investigation was published in the FEDERAL REGISTER on May 16, 1978 (43 FR 21769). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Eva Fisher Dress Co., its customers, the U.S. Department of Commerce, the United States International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of women's, misses', and children's dresses decreased from 1,655 thousand dozen in 1975 to 1,614 thousand dozen in 1976 to 1,420 thou-

sand dozen in 1977. The import to domestic production ratio decreased from 8.0 percent in 1976 to 6.7 percent in 1977. Domestic production information was not available for 1978.

U.S. imports of women's, misses', and children's suits decreased from 412 thousand dozen in 1975 to 408 thousand dozen in 1976 to 384 thousand dozen in 1977. The import to domestic production ratio decreased from 11.4 percent in 1976 to 10.5 percent in 1977.

Eva Fisher Dress Co. contracted almost exclusively for one manufacturer. Industry sources and customers of the manufacturer who were surveyed indicated that price competition is not an important factor in the market of ladies' designer apparel. Relatively few stores carry European designer clothing, particularly on a large scale, which adds to its exclusivity, and makes it less of a substitute for mainstream American designer clothing. Customers base a decision to buy from a particular domestic manufacturer almost entirely upon exclusivity and style.

CONCLUSION

After careful review, I determine that workers of Eva Fisher Dress Co., Los Angeles, Calif., are denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 18th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-26881 Filed 9-25-78; 8:45 am]

[4510-28]

[TA-W-3174]

F. E. OLDS & SON, INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3174: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on February 21, 1978, in response to a worker petition received on February 2, 1970, which was filed by the United Steelworkers of America on behalf of workers and former workers producing brass wind instruments at F. E. Olds & Son, Inc. (a division of Norlin Music Corp.), Fullerton, Calif.

The notice of investigation was published in the FEDERAL REGISTER on March 3, 1978 (43 FR 8864). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from F. E. & Son, Inc., Norlin Music Corp., its customers, the U.S. Department of Commerce, the United States International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of brass wind musical instruments increased from 38,781 units in 1976 to 46,710 units in 1977.

The import to domestic production ratio for brass wind musical instruments increased from 18.2 percent in 1976 to 25.7 percent in 1977.

Over 95 percent of F. E. Old's production is sold by its parent firm, Norlin Music Corp. A Department survey was conducted with customers of Norlin Music Corp. Some of the surveyed customers indicated that they had increased their purchases of imported brass wind musical instruments, while decreasing purchases from Norlin from 1976 to 1977 and during the first quarter of 1978 as compared to the first quarter of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with brass wind musical instruments produced by F. E. Olds & Son, Inc., Fullerton, Calif. (a division of Norlin Music Corp.) contributed importantly to the decline in sales and production and to the total or partial separation of workers at the plant.

In accordance with the provisions of the Act, I make the following certification:

All workers at F. E. Olds & Son, Inc., Fullerton, Calif., who became totally or partially separated from employment on or after April 29, 1977, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 8th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-26882 Filed 9-25-78; 8:45 am]

[4510-28]

[TA-W-3027]

FORT PITT STEEL CASTING DIVISION—CONVAL PENN, INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3027: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on February 6, 1978, in response to a worker petition received on January 30, 1978, which was filed by the United Steelworkers of America on behalf of workers and former workers producing steel castings at Fort Pitt Steel Casting Division—Conval Penn, Inc., McKeesport, Pa.

The notice of investigation was published in the FEDERAL REGISTER on February 17, 1978 (43 FR 7064). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Fort Pitt Steel Casting Division—Conval Penn, Inc., its customers, the U.S. Department of Commerce, the United States International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of steel castings increased from $27.1 million in 1976 to $33.9 million in 1977. The imports to domestic production ratio increased from 1.1 percent in 1976 to 1.3 percent in 1977. This ratio has not exceeded 1.3 percent for the past 4 years.

Fort Pitt Steel Casting Division—Conval Penn, Inc., specializes in the casting of industrial valve parts, and is a wholly-owned subsidiary of Conval Corp. Over 50 percent of Fort Pitt's production is sold to two other Conval Corp. divisions for assembly and finishing into valves. Fort Pitt's sales of cast steel valve parts to the two Conval Corp. divisions, which are captive customers of the Fort Pitt Division, increased in 1977 compared to 1976.

The drop in production and employment at Fort Pitt Steel Casting can therefore be attributed to cutbacks in purchases by outside customers. A survey of outside customers revealed that none of these customers decreased purchases from Fort Pitt and increased purchases from foreign sources in 1977 as compared to 1976.

CONCLUSION

After careful review, I determine that all workers of Fort Pitt Steel Casting Division—Conval Penn, Inc., McKeesport, Pa., are denied eligibility to apply for trade adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 15th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-26883 Filed 9-25-78; 8:45 am]

[4510-28]

[TA-W-2689]

GAMS

Certification Regarding Eligibility To Apply For Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2689: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 1, 1977, in response to a worker petition received on November 14, 1977, which was filed by the International Ladies Garment Workers Union on behalf of workers and former workers producing ladies' slacks and jackets at GAMS, Elizabeth, N.J. The investigation revealed that ladies' slacks accounted for over 90 percent of production at GAMS.

The notice of investigation was published in the FEDERAL REGISTER on December 16, 1977 (42 FR 63484). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of GAMS, its customers, the National Cotton Council of America, the U.S. Department of Commerce, the United States International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of women's misses and children's slacks and shorts increased in 1975 to 10,067 thousand dozen, increased in 1976 to 11,040 thousand dozen, and increased in 1977 to 11,622 thousand dozen.

The imports to domestic production ratio for women's misses' and children's slacks and shorts increased to 35.2 percent in 1975 and further increased to 36.4 percent in 1976.

A survey of the manufacturers for whom GAMS performed contract work and one of the customers of one of those manufacturers indicated significant import penetration. One manufacturer reduced purchases from GAMS and increased purchases of imported ladies' slacks. The customers of another manufacturer indicated increases in purchases of imported ladies' slacks of 185 percent in 1976 and 158 percent in 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with ladies' slacks produced by GAMS, Elizabeth, N.J. contributed importantly to the declines in production and to the total or partial separation of workers at that firm. In accordance with the provisions of the Act, I make the following certification:

All workers at GAMS, Elizabeth, N.J. who became totally or partially separated from employment on or after June 18, 1977, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 11th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and PLanning.

[FR Doc. 78-26884 Filed 9-25-78; 8:45 am]

[4510-28]

[TA-W-3827]

GENERAL CABLE CORP.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3827: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on June 12, 1978, in response to a worker petition received on June 9, 1978, which was filed on behalf of all workers at the Warrenton, Mo. plant of General Cable Corp.

The notice of investigation was published in the FEDERAL REGISTER on June 27, 1978 (43 FR 27925). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of General Cable Corp., the U.S. Department of Commerce, the United States International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility, each of the group eligibility requirements of section 222 of the Act must be met. Regardless of whether any of the other criteria have been met, the following criterion has not been met:

That sales or production, or both of such firm or subdivision have decreased absolutely.

Annual sales and production of copper wire bar increased in quantity from 1976 to 1977 and increased in the first half of 1978 compared to the same 1977 period.

CONCLUSION

After careful review, I determine that all workers of the Warrenton, Mo. plant of General Cable Corp. are denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 18th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-26885 Filed 9-25-78; 8:45 am]

[4510-28]

[TA-W-3619]

GRACE COAT CO.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3619: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of Act.

The investigation was initiated on May 8, 1978, in response to a worker petition received on April 28, 1978, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats at Grace Coat Co., Hoboken, N.J.

The notice of investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Grace

Coat Co., its customers (manufacturers), the U.S. Department of Commerce, the United States International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. The Department's investigation revealed that all of the requirements have been met.

U.S. imports of women's, misses', and children's coats and jackets increased from 2,252 thousand dozen in 1976 to 2,723 thousand dozen in 1977. Imports declined from 590 thousand dozen in the first quarter of 1977 to 572 thousand dozen in the first quarter of 1978. The ratio of imports to domestic production increased from 48.3 percent in 1976 to 54.9 percent in 1977.

The Department conducted a survey of the principal manufacturer for which Grace Coat Co. worked in 1976 and 1977. This manufacturer reported that it reduced purchases from Grace Coat Co. and increased purchases of imported ladies' coats in 1977 compared to 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the ladies' coats produced at Grace Coat Co., Hoboken, N.J., contributed importantly to the decline in sales and to the separation of workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of Grace Coat Co., Hoboken, N.J., who become totally or partially separated from employment on or after March 23, 1977, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 18th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-26886 Filed 9-25-78; 8:45 am]

[4510-28]

[TA-W-3538, 3538A, 3538B, 3538C, 3538D]

HANDI-BAG CO., INC. ET AL.

Certifications Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3538, 3538A, 3538B, 3538C, 3538D: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on April 25, 1978, in response to a worker petition received on April 4, 1978, which was filed on behalf of workers and former workers producing ladies' vinyl handbags, at Handi-Bag Co., Inc. and Bags by Trudy, Inc., The investigation was expanded to include Bags by Scobe, Inc., Nancy Bag Corp. and Bags by Gail, Inc., all affiliates of Handi-Bag Co., Inc.

The notice of investigation was published in the FEDERAL REGISTER on May 5, 1978 (43 FR 19478-79). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Handi-Bag Co., Inc., its customers, the U.S. Department of Commerce, the United States International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of handbags increased from 57.9 million units in 1975 to 90.2 million units in 1976 to 92.8 million units in 1977. U.S. imports increased 53.8 percent from 22.1 million units in the first quarter of 1977 to 34.0 million units in the first quarter of 1978.

The ratio of imports to domestic production increased from 73.5 percent in 1975 to 111.1 percent in 1976 to 116.6 percent in 1977.

U.S. imports of plastic handbags increased from 31.9 million units in 1975 to 53.9 million units in 1976 and decreased to 48.5 million units in 1977. Imports increased 11.0 percent from 11.8 million units in the first quarter of 1977 to 13.1 million units in the first quarter of 1978.

Customers representing a significant proportion of Handi-Bag Co., Inc.'s sales in 1976 and 1977 decreased their purchases from the subject firm and increased their import purchases in 1977 compared to 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with ladies' vinyl handbags produced by Handi-Bag Co., Inc., Bags by Trudy, Bags by Scobe, Inc., Nancy Bag Corp., and Bags by Gail Inc., New York, N.Y., contributed importantly to the total or partial separation of workers at these plants. In accordance with the provisions of the Act, I make the following certification:

All workers at Handi-Bag Co., Inc., Bags by Trudy, Bags by Scobe, Nancy Bag Corp. and Bags by Gail, Inc., New York, N.Y. who became totally or partially separated from employment on or after March 28, 1977, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 15th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-26887 Filed 9-25-78; 8:45 am]

[4510-28]

[TA-W-3523]

HELGA, INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3523: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on April 18, 1978, in response to a worker petition received on April 10, 1978, which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing ladies' designer or couture ready-to-wear clothing at Helga, Inc., Los Angeles, Calif.

The notice of investigation was published in the FEDERAL REGISTER on May 2, 1978 (43 FR 18789). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from Helga, Inc., its customers, the U.S. Department of Commerce, the United States International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threats thereof, and to the absolute decline in sales or production.

U.S. imports of women's, misses' and children's dresses decreased from 1,655 thousand dozen in 1975 to 1,614 thousand dozen in 1977. The import to domestic production ratio decreased

from 8 percent in 1976 to 6.7 percent in 1977.

U.S. imports of women's, misses' and children's suits decreased from 412 thousand dozen in 1975 to 408 thousand dozen in 1976 and to 384 thousand dozen in 1977. The import to domestic production ratio decreased from 11.4 percent in 1976 to 10.5 percent in 1977.

Helga, Inc., is a manufacturer of ladies' designer of couture ready-to-wear clothing. Sales and production increased in value in the first quarter of 1978 compared to the same period of 1977.

Industry sources and customers of Helga who were surveyed indicated that price competition is not an important factor in the market of ladies' designer apparel. Customers base a decision to buy from a particular manufacturer—domestic or foreign—almost entirely upon exclusivity and style.

CONCLUSION

After careful review, I determine that workers of Helga, Inc., Los Angeles, Calif., are denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 11th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-26888 Filed 9-25-78; 8:45 am]

[4510-28]

[TA-W-3697]

INTERNATIONAL TELEPHONE & TELEGRAPH CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3697: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 11, 1978, in response to a worker petition received on April 27, 1978, on behalf of all workers producing undersea telecommunications cable at the Cable-Hydrospace Division of International Telephone & Telegraph Co., National City, Calif.

The notice of investigation was published in the FEDERAL REGISTER on May 30, 1978 (43 FR 23036). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of International Telephone & Telegraph Co., the U.S. Department of Commerce, the United States International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with the articles produced by such workers' firm or an appropriate subdivision thereof contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

The cable produced at the Cable-Hydrospace Division of ITT is primarily used as linkage between communications systems in the United States and those in the rest of the world. A Federal Communications Commission decision of November 1977 not to build a seventh transatlantic cable was a major factor in ITT's decision to close the National City, Calif., plant.

The Department's investigation revealed that U.S. imports of undersea telecommunications cable have been negligible from 1975 through the first half of 1978.

CONCLUSION

After careful review I determine that all workers of the Cable-Hydrospace Division of International Telephone & Telegraph Co., National City, Calif., are denied eligibility to apply for trade adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 11th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-26889 Filed 9-25-78; 8:45 am]

[4510-28]

[TA-W-3649]

JZ COAT CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3649: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 8, 1978, in response to a worker petition received on April 28, 1978, which was filed on the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats at JZ Coat Co., Jersey City, N.J.

The notice of investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of JZ Coat Co., its manufacturers, the U.S. Department of Commerce, the United States International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met.

that increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the total or partial separation, or threat thereof, and to the absolute decline in sales or production.

The Department's investigation indicated that employment declines at JZ Coat Co. in the first half of 1977 and again in the first half of 1978 were the result of normal seasonal fluctuations in production. Employment and production at JZ Coat increased in the first 5 months of 1978 compared to the same period in 1977. The layoffs in the first half of 1978 ended earlier in 1978 than in 1977.

CONCLUSION

After careful review, I determine that all workers of JZ Coat Co., Jersey City, N.J. are denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 18th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-26890 Filed 9-25-78; 8:45 am]

[4510-28]

[TA-W-2691, 2692]

KADIMAH KNITS PLANT NO. 1 AND PLANT NO. 2

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of

TA-W-2691, 2692: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 1, 1977 in response to a worker petition received on November 14, 1977, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' slacks and jackets at plant No. 1 and plant No. 2 of Kadimah Knits, Inc., Elizabeth, N.J. The investigation revealed that ladies' slacks accounted for over 90 percent of production of both plants.

The notice of investigation was published in the FEDERAL REGISTER on December 16, 1977 (42 FR 63484). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Kadimah Knits, its manufacturers and, their customers, the National Cotton Council of America, the U.S. Department of Commerce, the United States International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustments assistance, each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

United States imports of women's, misses' and children's slacks and shorts increased in 1975 to 10,067 thousand dozen, increased in 1976 to 11,040 thousand dozen, and increased in 1977 to 11,622 thousand dozen.

The imports to domestic production ratio for women's misses' and children's slacks and shorts increased to 35.2 percent in 1975 and further increased to 36.4 percent in 1976.

A survey of the manufacturers for whom Kadimah Knits performed contract work and of the customers of one of those manufacturers indicated significant import penetration. One manufacturer reduced purchases from Kadimah Knits and increased purchases of imported ladies' slacks. The customers of another manufacturer indicated increases in purchases of imported ladies' slacks of 185 percent in 1976 and 158 percent in 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with ladies' slacks produced by plants No. 1 and No. 2 of Kadimah Knits, both of Elizabeth, N.J., contributed importantly to the decline in production and to the total or partial separations of workers of those plants. In accordance with the provisions of the Act, I make the following certification:

All workers of Kadimah Knits, Inc., plant No. 1 at 1144 Elizabeth Avenue, Elizabeth, N.J.; and all workers of Kadimah Knits, Inc., plant No. 2 at 107 Trumbull Street, Elizabeth, N.J. who became totally or partially separated from employment on or after November 11, 1976, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 11th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-26891 Filed 9-25-78; 8:45 am]

[4510-28]

[TA-W-2955]

KAISER STEEL CORP.

Negative Determination Regarding Application for Reconsideration

By application dated August 14, 1978, counsel for workers at the Napa, Calif., plant of Kaiser Steel Corp. requested administrative reconsideration of the Department of Labor's impact date in its certification regarding eligibility to apply for worker adjustment assistance. This determination was published in the FEDERAL REGISTER on July 18, 1978 (43 FR 30930).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears, on the basis of facts not previously considered, that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) If, in the opinion of the certifying officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

In his application, counsel makes a basic claim that based upon a certification covering workers at the Fontana, Calif., mill of Kaiser Steel Corp. (TA-W-1266), the impact date established for TA-W-2955, Napa, Calif. plant of Kaiser Steel Corp., should be changed from January 5, 1977, to October 10, 1975.

In defense of his claim, counsel raises two basic issues:

(1) That workers engaged in the production of steelplate at the Fontana plant were, and could only have been, certified as eligible for trade adjustment assistance because of the reduction of shipments of steelplate to the Napa plant where it was further processed into pipe. Counsel refers to data in the notice of determination for TA-W-1266 showing that employment of steelplate workers decreased 10 percent in the fourth quarter of 1975 compared to the same quarter in 1974. He further points out that production of plate at Fontana, to be shipped to the Napa plant, decreased 20 percent in 1975 compared to 1974 whereas production of plate for sale to all other customers declined only 11 percent during the same period. Thus, counsel concludes that over half of the above-mentioned decrease in employment was due to the decrease in shipments to Napa. Since counsel interprets the regulations as to what constitutes a significant proportion of the workforce as being a total of 5-percent unemployment, where more than 50 workers are involved, he concludes that Fontana workers engaged in the production of plate could only have been certified due to the decreased shipments to the Napa plant, and assumes that this was due to import influence upon Napa's production of pipe.

Although it may be true that decreases of shipments to the Napa plant contributed to the layoffs at the Fontana mill, the Department's decision was not based on shipments to the Napa plant. The notice of determination shows that production of plate at the Fontana mill for sale to customers (excluding Napa), declined 30 percent in 1976 compared to 1975. Shipments of plate to those customers decreased 26 percent in 1976 compared to 1975. Employment of workers engaged in the production of steelplate not only declined 10 percent in the fourth quarter of 1975 compared to the same quarter in 1974, but also decreased 24 percent in 1976 compared to 1975. The important element is that increased imports of like or directly competitive articles were found to have contributed importantly to such declines in production, shipments, and employment at Fontana, not through shipments to Napa—because Napa switched to buying foreign plate or because Napa's customers switched to imported pipe—but because other customers of Fontana decreased purchases of Fontana's plate while increasing purchases of imported plate.

(2) The second basic issue raised by counsel is that just as in TA-W-2955 where the investigation was expanded to cover not only the Napa plant, but also the Vallejo and Oakland assembly yards, so in TA-W-1266 the investigation should have covered the Napa plant without a need for a new petition. According to counsel, this is so because production of plate as the Fontana mill was integrated into Napa's production of pipe (between 35 to 40 percent of Fontana's production of plate was shipped to Napa to be transformed into pipe). Furthermore, counsel claims that: "But for the adverse impact of imports upon Napa's Kaiser Steel workers, Kaiser Steel workers at Fontana an integrated part of the production of steel pipe at Napa would never have been certified under TA-W-1266."

It was not because of the adverse impact of imports upon Napa's pipe, however, that the Department certified plateworkers at Fontana. The certification was based on the impact of imports of competitive plate upon the production and sale of plate at Fontana, and upon the workers engaged in such production. TA-W-1266 did not deal with the impact of pipe imports

on the pipes produced at Napa. The Department had not received a petition for the Napa plant at that time, and the investigation dealt with entirely different products produced at the Fontana mill. The Department knew that 35 to 40 percent of Fontana's plate production was shipped to Napa to be transformed into, and sold as, pipe. It would not have been appropriate for the Department to have gone into the issue of import influence upon Napa's pipe, in order to determine import influence upon Fontana's plate. The Trade Act of 1974 requires that increased imports of like or directly competitive articles have contributed importantly to worker separations in order to issue a certification. Pipe is not like or directly competitive with plate within the meaning of the Act.

Secondly: The comparison of the relationship that exists between the Vallejo and Oakland, Calif., assembly yards and the Napa plant on one hand, and the Napa plant and Fontana mill on the other, is not relevant. While Napa used Fontana's plate to produce pipe, a different product, the Vallejo and Oakland yards were an integral part of Napa's production of fabricated steel structures, since their function was to assemble large steel subassemblies fabricated at Napa.

CONCLUSION

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C., this 15th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-26892 Filed 9-25-78; 8:45 am]

[4510-28]

[TA-W-3597]

LIDO FASHIONS, INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3597: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on May 8, 1978, in response to a worker petition received on April 28, 1978, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats at Lido Fashions, Inc., Paterson, N.J.

The notice of investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Lido Fashions, Inc., its customers (manufacturers), the U.S. Department of Commerce, the United States International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. The Department's investigation revealed that all of the requirements have been met.

U.S. imports of women's, misses', and children's coats and jackets increased from 2,252 thousand dozen in 1976 to 2,723 thousand dozen in 1977. Imports declined from 590 thousand dozen in the first quarter of 1977 to 572 thousand dozen in the first quarter of 1978. The ratio of imports to domestic production increased from 48.3 percent in 1976 to 54.9 percent in 1977.

The Department conducted a survey of the principal manufacturers for which Lido Fashions, Inc., worked in 1976 and 1977. Manufacturers that accounted for a majority of sales in 1976 reduced purchases from Lido Fashions, Inc., and increased purchases of imported ladies' coats in 1977 compared to 1976. Manufacturers that accounted for a majority of sales in 1977 reduced purchases from Lido Fashions, Inc., and increased purchases of imports in the first quarter of 1978 compared to the first quarter of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the ladies' coats produced at Lido Fashions, Inc., Paterson, N.J., contributed importantly to the decline in sales and to the separation of workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of Lido Fashions, Inc., Paterson, N.J., who became totally or partially separated from employment on or after November 1, 1977, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 15th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-26893 Filed 9-26-78; 8:45 am]

[4510-28]

[TA-W-3598]

N & R FASHIONS, INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3598: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 8, 1978, in response to a worker petition received on April 28, 1978, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats and raincoats at N & R Fashions, Inc., Paterson, N.J.

The notice of investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of N & R Fashions, Inc., its customers (manufacturers), the U.S. Department of Commerce, the United States International Trade Commission, the National Cotton Coucil of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. The Department's investigation revealed that all of the requirements have been met.

U.S. imports of women's, misses', and children's coats and jackets increased from 2,252 thousand dozen in 1976 to 2,723 thousand dozen in 1977. Imports declined from 590 thousand dozen in the first quarter of 1977 to 572 thousand dozen in the first quarter of 1978. The ratio of imports to domestic production increased from 48.3 percent in 1976 to 54.9 percent in 1977.

The Department conducted a survey of the principal manufacturers for which N & R Fashion, Inc., worked in 1976 and 1977. Manufacturers that accounted for 100 percent of sales in 1976 reduced purchases from N & R Fashion, Inc., and increased purchases of imported ladies' coats in 1977 compared to 1976. Manufacturers that accounted for 100 percent of sales in

1977 increased purchases of imports in the first quarter of 1978 compared to the first quarter of 1977. N & R Fashion, Inc., closed temporarily in March 1978, and remained closed through May 1978.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the ladies' coats produced at N & R Fashions, Inc., Paterson, N.J., contributed importantly to the decline in sales and to the separation of workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of N & R Fashions, Inc., Paterson, N.J., who became totally or partially separated from employment on or after October 1, 1977, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 15th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-26894 Filed 9-25-78; 8:45 am]

[4510-28]

[TA-W-3511]

PHELPS DODGE REFINING CORP.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3511: Investigation regarding certification of eligibility to apply for adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on April 13, 1978, in response to a worker petition received on April 3, 1978, which was filed by the United Steelworkers of America on behalf of workers and former workers producing electrolitically refined copper at the El Paso, Tex., refinery of the Phelps Dodge Refining Corp.

The notice of investigation was published in the FEDERAL REGISTER on April 25, 1978 (43 FR 17552). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Phelps Dodge Refining Corp., the Department of Commerce, the United States International Trade Commission, U.S. Department of the Interior, the American Metals Market, Metal Bulletin, Metals Week, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

United States imports of refined copper increased from 147 thousand short tons in 1975 to 384 thousand short tons in 1976. Imports then increased to 391 thousand short tons in 1977. Imports increased from 66 thousand short tons in the first quarter of 1977 to 150 thousand short tons for the same period in 1978.

The imports to domestic production ratio increased from 8.6 percent in 1975 to 21.0 percent in 1976 and then increased to 22.2 percent in 1977. The imports to domestic production ratio increased from 13.1 percent in the first quarter of 1977 to 34.1 percent for the same period in 1978.

Company imports of refined, blister, and concentrated copper increased 134.6 percent from 1976 to 1977. Imports increased 1,099.3 percent in the first quarter of 1978 compared to the same period in 1977. Imports as a percentage of sales increased from 0.7 percent in 1976 to 1.6 percent in 1977 and to 6.6 percent in the first quarter of 1978.

Imports of copper are affected by the differential between the domestic producers price for copper and the price established by the LME (London Metal Exchange). When the LME price drops more than the estimated transportation cost of 5-8 cents per pound below the domestic producers price, the demand of imported copper increases. During May and June 1977, the LME price was almost 11 cents per pound below the domestic producers price and in July and August 1977 the LME price was almost 12 cents per pound below the domestic producers price. At the same time, the abundant supply of copper stocks in the foreseeable future provides no reason for domestic consumers of copper to maintain ties with domestic producers for purposes of a guarantee against copper shortages. Consequently, in 1977 and in the first quarter of 1978, when many domestic producers curtailed production because of the depressed market price of copper, imports of refined copper increased in 1977 compared to 1976 and increased 127.3 percent in the first quarter of 1978 compared to the same period in 1977.

Price pressure from imported copper has reduced the ability to profitably mine domestic ore and convert it to copper concentrate and refined copper. The current domestic market price of copper is 64 cents per pound. Industry sources indicate that the production costs of domestic copper mines per pound is equal to or higher than the market price. Consequently, domestic producers have been breaking even or operating at a loss.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the electrolitically refined copper produced by the El Paso, Tex., refinery of the Phelps Dodge Refining Corp. contributed importantly to the decline in sales and production and to the total or partial separation of workers at the facility. In accordance with the provisions of the Act, I make the following certification:

All workers at the Phelps Dodge Refining Corp., El Paso, Tex., who became totally or partially separated from employment on or after August 10, 1977, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 18th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-26895 Filed 9-25-78; 8:45 am]

[4510-28]

[TA-W-2982]

PRATT MANUFACTURING CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2982: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on January 30, 1978 in response to a worker petition received on January 11, 1978, which was filed on behalf of workers and former workers producing large diameter turntable bearings at Pratt Manufacturing Co., Salineville, Ohio.

The notice of investigation was published in the FEDERAL REGISTER on February 17, 1978 (43 FR 7069). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Pratt Manufacturing Co., its customers, the U.S. Department of Commerce, the United States International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility

requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met the following criterion has not been met.

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threats thereof, and to the absolute decline in sales or production.

U.S. imports of lightweight turntable bearings 12 to 60 inches in diameter declined in value terms in 1976 compared to 1975 then increased in 1977 compared to 1976. The ratio of imports to domestic production declined from 24.8 percent in 1977 to 22.0 percent in 1977.

None of the customers of Pratt Manufacturing Co. that were surveyed reported any direct purchases of imports. One customer reported indirect imports. A survey of firms with which Pratt had lost bids for contract work revealed that all firms had awarded their contracts to the competition of Pratt Manufacturing Co. While this competition does import bearings, imports have declined in recent years while the value of domestic production has increased.

CONCLUSION

After careful review I determine that all workers of Pratt Manufacturing Co., Salineville, Ohio, are denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 8th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-26896 Filed 9-25-78; 8:45 am]

[4510-28]

[TA-W-3605]

RIVERPARK MANUFACTURING CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3605: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 8, 1978, in response to a worker petition received on April 28, 1978, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats at Riverpark Manufacturing Co., Paterson, N.J. The investigation revealed that Riverpark Manufacturing Co. also produces ladies' raincoats.

The notice of investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Riverpark Manufacturing Co., its customers (manufacturers), the U.S. Department of Commerce, the United States International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the total or partial separation, or threat thereof, and to the absolute decline in sales or production.

The Department conducted a survey of the principal manufacturer for which Riverpark Manufacturing Co. worked in 1976 to 1977. The manufacturer surveyed, representing 100 percent of sales in 1976 and 1977, reduced purchases from Riverpark Manufacturing Co. and reduced imports in 1977 compared with 1976. Total sales by Riverpark increased in the first quarter of 1978 compared with the first quarter of 1977.

CONCLUSION

After careful review, I determine that all workers of the Paterson, N.J. plant of Riverpark Manufacturing Co. are denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 11th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-26897 Filed 9-25-78; 8:45 am]

[4510-28]

[TA-W-3905]

S.J. KNITS, INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the result of TA-W-3905: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on June 22, 1978, in response to a worker petition received on June 22, 1978, which was filed by Distributive Workers of America, on behalf of workers and former workers producing women's knit apparel at S.J Knits, Inc., Ridgefield, N.J.

The notice of investigation was published in the FEDERAL REGISTER on July 7, 1978 (43 FR 29365-66). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of S.J. Knits, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses', and children's dresses have increased absolutely in the first quarter of 1978 as compared to the first quarter of 1977 going from 371,000 dozen to 403,000 dozen, respectively. Imports of women's, misses', and children's suits, including skirt suits, pantsuits, and jumpsuits have increased absolutely in the first quarter of 1978 compared to the same period of 1977 going from 62,000 dozen to 104,000 dozen, respectively.

All workers of S.J. Knits, Inc. were permanently laid off in May 1978. S.J. Knits went out of business in June 1978.

In April 1978, the manufacturer that represented a major portion of S.J. Knits contract work in 1978, ceased contract work with S.J. Knits. A departmental survey of this manufacturer indicated it had begun importing women's knit apparel in 1976, and increased its import purchases in 1977 and 1978 coinciding with decreases in contract work with S.J. Knits, Inc.

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with women's knit apparel produced at S.J. Knits, Inc. contributed importantly to the decline in sales or production and to the total or partial separation of the workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at S.J. Knits, Inc., Ridgefield, N.J., who became totally or partially separated from employment on or after November 12, 1977, are eligible to apply for adjust-

ment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 11th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-26898 Filed 9-25-78; 8:45 am]

[4510-28]

[TA-W-3910]

VERNITRON, INC. (VRN)

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3910: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on June 26, 1978, in response to a worker petition received on June 23, 1978, which was filed on behalf of all workers producing electric components and potentiometers at the St. Petersburg, Fla., plant of Vernitron, Inc.

The notice of investigation was published in the FEDERAL REGISTER on July 7, 1978 (43 FR 29364). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of VRN, Inc., the U.S. Department of Commerce, the United States International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. It is concluded that all of the requirements have been met.

U.S. imports of variable nonwire wound resistors, a category that includes the nonwire wound potentiometers produced at the St. Petersburg plant, increased in quantity in the first 3 months of 1978 to 64.4 million units from 55.8 million units in the first 3 months of 1977. The ratio of imports of variable nonwire wound resistors to U.S. production increased to 37.4 percent in the first 3 months of 1978 from 30.3 million units in the first 3 months of 1977.

Company imports of potentiometers, both wire and nonwire wound, increased in the first 6 months of 1978 compared to the first 6 months of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with potentiometers produced by Vernitron, Inc., St. Petersburg, Fla., contributed importantly to the total or partial separation of workers at the plant. In accordance with the provisions of the Act, I make the following certification:

All workers at Vernitron, Inc., St. Petersburg, Fla., who became totally or partially separated from employment on or after March 31, 1978, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 11th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-26899 Filed 9-25-78; 8:45 am]

[4510-28]

[TA-W-3265]

VICTOR GLOVES MANUFACTURING CORP.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3265: Investigation regarding certification of eligiblity to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on February 27, 1978, in response to a worker petition received on February 15, 1978, which was filed by the Amalgamated Clothing & Textile Workers Union on behalf of former workers producing foot protectors, toys, dolls, and other sundry item at Victor Gloves Manufacturing Corp., New York, N.Y. During the course of the investigation, it was established that Victor Gloves Manufacturing Corp. produced work gloves, foot protectors, and laboratory garments.

The notice of investigation was published in the FEDERAL REGISTER on March 14, 1978 (43 FR 10648). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Victor Gloves Manufacturing Corp., its customers, the U.S. Department of Commerce, the United States International Trade Commission, the National Association of Hosiery Manufacturers, the National Association of Uniform Manufacturers, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. The investigation revealed that, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations or threat thereof, and to the absolute decline in sales or production.

Approximately 50 to 60 percent of 1976 and 1977 sales by Victor Gloves Manufacturing Corp. consisted of lightweight work gloves for men and women, 30 to 35 percent of sales consisted of foot protectors, while the remainder of sales consisted of laboratory garments and various protective fabric coverings.

Evidence developed during the course of the investigation revealed that imports of laboratory garments are negligible. Imports of all hosiery, except pantyhose, declined from 1,552 thousand dozen in 1975 to 573 thousand dozen in 1976 and to 505 thousand dozen in 1977. The ratio of imports to domestic hosiery production declined from 0.31 percent in 1976 to 0.26 percent in 1977.

Customers surveyed who decreased purchases from Victor Gloves in 1977 from 1976 did not purchase imported work gloves or foot protectors.

CONCLUSION

After careful review, I determine that workers of Victor Gloves Manufacturing Corp., New York, N.Y., are denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 11th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-26900 Filed 9-25-78; 8:45 am]

[4510-28]

[TA-W-3906]

WARREN YOUNG

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3906: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on June 22, 1978, in response to a worker petition received on April 25, 1978,

which was filed on behalf of workers and former workers employed by Warren Young, Johnstown, Pa., who leased trucks to Birk Transfer, Inc., for the provision of transportation services to the Johnstown, Pa. plant of Bethlehem Steel Corp.

The notice of investigation was published in the FEDERAL REGISTER on July 7, 1978 (43 FR 29365). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from Warren Young and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. The Department has determined that services are not "articles" within the meaning of section 222 of the Act and that independent firms for which the subject firm provides services cannot be considered to be the "workers' firm."

Warren Young was an independent broker who provided trucks and drivers to Birk Transfer Co., Inc. on a need basis. Mr. Young ran his business as an individual and did not incorporate.

Warren Young was a subcontractor who owned the trucks used by his drivers. Mr. Young died in June 1977. The assets of the business were sold in August 1977.

Birk Transfer Co. contracted with Bethlehem Steel Corp.'s Johnstown, Pa. plant to provide intraplant transport services. Birk Transfer Co. contracted with Warren Young to provide trucks and drivers.

Employees of Warren Young were engaged in providing transportation services and did not produce an article within the meaning of section 222(3) of the Act.

Warren Young and his customers had no controlling interest in each other. All workers engaged in providing transportation services for Warren Young were employed by him. All personnel actions and payroll transactions were controlled by Warren Young. All employment benefits were provided and maintained by Warren Young. Workers were not at any time under supervision or employment by Birk Transfer Co., or Bethlehem Steel Corp. Thus, Warren Young must be considered the "workers' firm."

CONCLUSION

After careful review, I conclude that all workers at Warren Young, Johnstown, Pa. are denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 11th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-26901 Filed 9-25-78; 8:45 am]

[4510-28]

[TA-W-1840]

WHITINSVILLE SPINNING RING CO.

Revised Certification of Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor issued a certification of eligibility to apply for adjustment assistance on August 23, 1977, applicable to workers and former workers producing spinning rings and twister rings at the Whitinsville, Mass., plant of Whitinsville Spinning Ring Co. The notice of certification was published in the FEDERAL REGISTER on September 2, 1977 (42 FR 44312).

At the request of the petitioners' attorney, a further investigation was instituted by the Director of the Office of Trade Adjustment Assistance. A review of the case revealed that some layoffs of nonseasonal workers occurred in the early part of February 1977. These layoffs were not covered by the original impact date of February 21, 1977.

The intent of the certification is to cover all workers at the Whitinsville, Mass., plant of Whitinsville Spinning Ring Co. who were affected by the decline in production of spinning and twister rings related to import competition. The certification, therefore, is revised, providing a new impact date of January 9, 1977.

The revised certification applicable to TA-W-1840 is hereby issued as follows:

All workers at the Whitinsville, Mass., plant of Whitinsville Spinning Ring Co. who became totally or partially separated from employment on or after January 9, 1977, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 11th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-26902 Filed 9-25-78; 8:45 am]

[4510-28]

WORKER ADJUSTMENT ASSISTANCE

Investigations Regarding Certifications of Eligibility To Apply

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under title II, chapter 2, of the Act in accordance with the provisions of subpart B of 29 CFR part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 6, 1978.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 6, 1978.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 14th day of September 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Boat Gertrude "D" (company)	New Bedford, Mass	Sept. 13, 1978	Sept. 8, 1978	TA-W-4,157	The catching and selling of fish.
Cardot Manufacturing Co. (company).	West Warwick, R.I	do	Aug. 29, 1978	TA-W-4,158	Contractor of ladies' sportswear and dresses.
Claire's Sportswear (workers)	Boston, Mass	do	Sept. 11, 1978	TA-W-4,159	Ladies' sportswear garments.
Clinton Shirt Corp. (workers)	Clinton, Ky	do	Aug. 25, 1978	TA-W-4,160	Shirts, skirts, and sundresses for little girls.
Reider Shoe Manufacturing Co., Inc. (workers).	Schuylsill Haven, Pa	Sept. 8, 1978	Sept. 1, 1978	TA-W-4,161	Men's, women's, and young girls' shoes.
J. P. Stevens Co., Rock Hill Industrial Plant (ACTWU).	Rock Hill, S.C	Sept. 13, 1978	Sept. 13, 1978	TA-W-4,162	Denim fabric.

[FR Doc. 78-26867 Filed 9-25-78; 8:45 am]

[4510-28]

WORKER ADJUSTMENT ASSISTANCE

Investigations Regarding Certifications of Eligibility To Apply

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under title II, chapter 2, of the Act in accordance with the provisions of subpart B of 29 CFR part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 6, 1978.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment assistance, at the address shown below, not later than October 6, 1978.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 13th day of September 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Casa La Gata, Inc. (company)	New York, N.Y	Sept. 8, 1978	Sept. 1, 1978	TA-W-4,142	Junior knit tops.
Cricket Sportswear, Inc. (workers)	Boston, Mass	Sept. 11, 1978	Sept. 7, 1978	TA-W-4,143	Contractors of ladies' pants, skirts, and sportswear articles.
Forbes Steel & Wire Corp. (USWA)	Wilmington, Del	do	Aug. 20, 1978	TA-W-4,144	Fabricate wire products.
Formaker Foundations, Inc. (workers)	West Paterson, N.J	do	Sept. 1, 1978	TA-W-4,145	Brassieres.
GAF Corp. Photo & Reproduction Division (workers).	Atlanta, Ga	do	Sept. 6, 1978	TA-W-4,146	Photo sensitized color and black and white films, color sensitized photo paper, amateur cameras and other cameras and accessories. Medical and industrial X-ray films.
Nipak, Inc. (Oil, Chemical & Atomic Workers International Union).	Pryor, Okla	Sept 7, 1978	Aug. 21, 1978	TA-W-4,147	Nitrogen based fertilizer products.
St. Joe Zinc. Co. (USWA)	Edwards, N.Y	Sept 11, 1978	Aug 15, 1978	TA-W-4,148	Mine and concentrate zinc ore.
Do	Balmat, N.Y	do	do	TA-W-4,149	Do.
The Pond Lily Co. (company)	New Haven, Conn	do	Sept. 7, 1978	TA-W-4,150	Dyeing and finishing of cotton synthetics for the footwear industry, luggage, handbag, and women's apparel.
Wiman Corp. (ACTWU)	Bird Island, Minn	do	do	TA-W-4,151	Women's sportswear.
Do	Windom, Minn	do	do	TA-W-4,152	Do
Do	Gaylord, Minn	do	do	TA-W-4,153	Do.
Do	Sauk Centre, Minn	do	do	TA-W-4,154	Women's sportswear and men's and womens' outerwear.
Do	Princeton, Minn	do	do	TA-W-4,155	Women's sportswear.
Do	Benson, Minn	do	do	TA-W-4,156	Luggage and coats.

[FR Doc. 78-26868 Filed 9-25-78; 8:45 am]

[4510-28]

WORKER ADJUSTMENT ASSISTANCE

Investigations Regarding Certifications of Eligibility to Apply

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under title II, chapter 2, of the Act in accordance with the provisions of subpart B of 29 CFR part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 6, 1978.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than. October 6, 1978.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 5th day of September 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Erie Scientific Co. (workers)	Buffalo, N.Y	Sept. 5, 1978	Aug. 7, 1978	TA-W-4,132	Microslides and cover glass.
Mansfield Tire & Rubber Co. (United Rubber, Cork, Linoleum & Plastic Workers of America).	Mansfield, Ohio	do	Aug. 30, 1978	TA-W-4,133	Tires and tubes.
Rochester Enterprises (workers)	Sheridan, Mont	do	Aug. 21, 1978	TA-W-4,134	Copper concentrates.
Welfab Steel Products, Inc. (workers).	Carteret, N.J	do	Aug. 28, 1978	TA-W-4,135	Large pollution control equipment.

[FR Doc. 78-26869 Filed 9-25-78; 8:45 am]

[4510-28]

UNALLOYED UNWROUGHT COPPER

Increased Imports

On August 23, 1978, the International Trade Commission (ITC) determined that increased imports of "Unalloyed Unwrought Coppper" are a substantial cause of serious injury, or the threat thereof, to the domestic industry for purposes of the import relief provisions of the Trade Act of 1974 (43 FR 38948).

Section 224 of the Trade Act directs the Secretary of Labor to initiate an industry study whenever the ITC begins an investigation under the import relief provisions of the Act. The purpose of the study is to determine the number of workers in the domestic industry petitioning for relief who have been or are likely to be certified as eligible for adjustment assistance and the extent to which existing programs can facilitate the adjustment of such workers to import competition. The Secretary is required to make a report of this study to the President and also make the report public (with the exception of information which the Secretary determines to be confidential).

The Department of Labor has concluded its report on "Unalloyed Unwrought Copper." The report found as follows:

1. Since April 3, 1975, the effective date of the adjustment assistance program, the U.S. Department of Labor has received 66 petitions involving workers in the three stages of refined copper production: copper mining and associated operations, copper smelting, and copper refining. Thirty-six of the petitions have been certified, eight denied, and twenty-two are still under investigation by the Department as of August 31, 1978. As of May 31, 1978 the Department paid out $24,875,896 in trade readjustment allowances to 11,970 workers involved in the three stages of refined copper production. It is not possible to break out payments by the various stages of production due to the integrated nature of the production facilities of some of the firms with certified workers.

In addition to the readjustment allowances the Department has paid out $87,205 in relocation allowances and $31,803 in job search allowances to certified workers in the industry. Also, the total number of workers entering training through May 31, 1978 was 868.

2. Employment in all three stages of refined copper production declined in 1977. Employment in copper mining and associated operations continued to decline in the first quarter of 1978 while copper smelter and refinery employment increased slightly. However, employment in all three stages of refined copper production is unlikely to improve substantially in the near future. Also, as the industry experiences increasing production costs due to pollution, and health and safety regulations there will be greater difficulty in competing with low priced imports. This may result in further reductions in employment. The majority of the displaced workers should be eligible for trade adjustment assistance.

3. An examination of local unemployment rates, available job vacancy data, and recent turnover data indicate reemployment prospects for separated workers in the three stages of refined copper production are generally poor for most separated workers. For areas with copper mine and associated operations, eight of the 18 areas had unemployment rates above the national average of 5.8 percent, unadjusted for April. In addition, some areas with relatively low April unemployment rates have since experienced deteriorating job market conditions due to mine closings.

For areas with copper smelters conditions appear to be less severe than for mining and associated operations but reemployment prospects remain unfavorable; 9 of the 16 areas had unemployment rates above the national average for April. For areas with copper refineries 11 of the 17 areas had unemployment rates above the national average and some recent operating cutbacks and closings by refineries have made job prospects poor for many separated workers. Also an examination of Employment Service vacancy data indicate that many areas with high unemployment rates also have a high ratio of workers registered seeking employment to the number of vacancies in common occupations found in the three stages of refined copper production.

4. An examination of the level of enrollment and the level of accrued expenditures relative to the planned level for CETA spon-

sors indicates that while adequate funding and client openings exist for many of the CETA programs, some programs may have difficulty, from a funding and slot availability viewpoint, in meeting the training needs of eligible workers. This problem appears most common in areas with copper refineries and copper mining and associated operations.

A comparison of the worker characteristics for the three stages of refined copper production, and CETA client characteristics indicates there are some differences in age and sex distribution and probable economic position. The differences between worker characterstics and CETA client characteristics are most pronounced for refinery workers, who tend to be older and more predominately male than workers in the other two stages of production. Workers in mining and associated operations are closer to CETA client characteristics, and are more likely to be eligible for CETA programs.

For displaced workers not covered by CETA programs the Department has the authority to purchase specific training for trade impacted workers.

Copies of the Department report containing nonconfidential information developed in the course of the 6-month investigation may be purchased by contacting the Office of Trade Adjustment Assistance, U.S. Department of Labor, 200 Constitutiton Avenue NW., Washington, D.C. 20210, phone 202-523-7665.

Signed at Washington, D.C., this 15th day of September 1978.

HOWARD D. SAMUEL,
Deputy Under Secretary, International Affairs.

[FR Doc. 78-26870 Filed 9-25-78; 8:45 am]

[4510-30]

NATIONAL COMMISSION FOR MANPOWER POLICY

MEETING

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770) notice is hereby given that the National Commission for Manpower Policy will sponsor a conference on November 3, 1978, in the Mount Vernon Room of the Sheraton Carlton Hotel, located at the corners of 16th and K Streets NW., Washington, D.C. The meeting will begin at 9 a.m. and adjourn at 5 p.m.

The National Commission for Manpower Policy was established pursuant to Title V of the Comprehensive Employment and Training Act of 1973 (Pub. L. 92-203). The Act charges the Commission with the broad responsibility of advising the President, the Congress, the Secretary of Labor, and other Federal agency administrators on national employment and training issues. The Commission is specifically charged with reporting annually to the President and the Congress on its findings and recommendations with respect to the Nation's employment and training policies and programs.

The agenda will be concerned with identifying and exploring how to obtain the advice and guidance of private sector employers on national employment issues. Specifically, the discussions will focus on current and future national employment issues and potential public/private approaches to them; initiatives to increase the employability and employment of the structurally unemployed; and alternative measures to increase private sector employment of the structurally unemployed.

Members of the general public or other interested individuals may attend the conference. Members of the public desiring to submit written statements to the Commission that are germane to the agenda may do so: *Provided*, That such statements are in reproducible form and are submitted to the Director no later than 2 days before and 7 days after the conference.

Additionally, members of the general public may request to make oral statements to the Commission to the extent that the time available for the conference permits. Such oral statements must be directly germane to the announced agenda and written applications must be submitted to the director of the Commission 3 days before the conference. This application shall identify the following: The name and address of the applicant; the subject of his or her presentation and its relationship to the agenda; the amount of time requested; the individual's qualifications to speak on the subject matter. The application shall also include a statement justifying why a written presentation would not suffice. The Chairman reserves the right to decide to what extent public oral presentation will be permitted at the conference. Oral presentations shall be limited to statements of fact and views and shall not include any questions of Commission members or other participants unless these questions have been specifically approved by the Chairman.

Minutes of the meeting, working papers, and other documents prepared for the conference will be available for public inspection 5 working days after the meeting at the Commission's headquarters located at 1522 K Street NW., Suite 300, Washington, D.C.

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

ISABEL V. SAWHILL,
Director, National Commission for Manpower Policy.

[FR Doc. 78-27016 Filed 9-25-78; 8:45 am]

[7536-01]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Humanities

ADVISORY COMMITTEE; HUMANITIES PANEL

Meeting

SEPTEMBER 18, 1978.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at 806 15th Street NW., Washington, D.C. 20506:

1. Date: October 12 and 13, 1978. Time: 9 a.m. to 5:30 p.m. Room: 807. Purpose: To review applications for the development of humanities public program formats submitted to the National Endowment for the Humanities for projects beginning after January 1, 1979.

2. Date: October 13, 1978. Time: 9 a.m. to 5:30 p.m. Room: 500. Purpose: To review conference proposals submitted to the National Endowment for the Humanities for projects beginning after December 1, 1978.

3. Date: October 16, 1978. Time: 9 a.m. to 5:30 p.m. Room: 11th floor conference room. Purpose: To review Germanic language applications submitted to the Translations Program of the National Endowment for the Humanities, for projects beginning April 1, 1979.

4. Date: October 19 and 20, 1978. Time: 9 a.m. to 5:30 p.m. Room: 807. Purpose: To review NEH institutional development grant applications submitted to the National Endowment for the Humanities for projects beginning after April 1, 1979.

5. Date: October 13, 1978. Time: 9 a.m. to 5:30 p.m. Room: 1130. Purpose: To review NEH summer seminar applications in science, technology, and human value submitted to the National Endowment for the Humanities for projects beginning after January 1, 1979.

6. Date: October 13 and 14, 1978. Time: 9 a.m. to 5:30 p.m. Room: 314. Purpose: To review NEH independent fellowship applications in all fields submitted to the National Endowment for the Humanities for projects beginning after January 1, 1979.

7. Date: October 16, 1978. Time: 9 a.m. to 5:30 p.m. Room: 314. Purpose: To review NEH summer seminar applications in classics submitted to the National Endowment for the Humanities for projects beginning after January 1, 1979.

8. Date: October 23, 1978. Time: 9 a.m. to 5:30 p.m. Room: 11th floor conference room. Purpose: To review Slavic language applications submitted to the translations program of the National Endowment for the Humanities, for projects beginning April 1, 1979.

Because the proposed meetings will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that the

meetings would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close these meetings to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 805 15th Street NW., Washington, D.C. 20506, or call area code 202-724-0367.

STEPHEN J. MCCLEARY,
Advisory Committee, Management Officer.

[FR Doc. 78-26961 Filed 9-25-78; 8:45 pm]

[7536-01]

ADVISORY COMMITTEE; HUMANITIES PANEL

Meeting

SEPTEMBER 6, 1978.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that a meeting of the Humanities Panel will be held at the Tulsa Public Library, 400 Civic Center, Tulsa, Okla., in the Third Floor Conference Room, from 9 a.m. to 5:30 p.m. on October 16, 1978.

The purpose of the meeting is to review applications for the development of humanities Public Library Program formats submitted to the National Endowment for the Humanities for projects beginning after January 1, 1979.

Because the proposed meeting will consider financial information and disclose information of a personal nature and disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street NW., Washington, D.C. 20506, or call area code 202-724-0367.

STEPHEN J. MCCLEARY,
Advisory Committee, Management Officer.

[FR Doc. 78-26962 Filed 9-25-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-443-A and 50-444-A]

PUBLIC SERVICE CO. OF NEW HAMPSHIRE, ET AL., SEABROOK STATION, UNITS 1 AND 2

Receipt of Additional Antitrust Information: Time for Submission of Views on Antitrust Matters

Public Service Co. of New Hampshire, pursuant to section 103 of the Atomic Energy Act of 1954, as amended, filed on May 15, 1978, information requested by the Attorney General for Antitrust Review as required by 10 CFR Part 50, Appendix L. This information adds Massachusetts Municipal Wholesale Electric Co., Vermont Electric Cooperative, Inc., Maine Public Service Co., Taunton Municipal Lighting Plant Commission, and Bangor Hydro-Electric Co. as possible co-owners of the Seabrook station, units 1 and 2.

The information was filed by Public Service Co. of New Hampshire, the United Illuminating Co., Central Maine Power Co., Central Vermont Public Service Corp., the Connecticut Light & Power Co., Fitchburg Gas & Electric Light Co., Montaup Electric Co., New Bedford Gas & Edison Light Co., New England Power Co., Vermont Electric Power Co., Inc., Massachusetts Municipal Wholesale Electric Co., Vermont Electric Cooperative, Inc., Maine Public Service Co., Taunton Municipal Lighting Plant Commission, Bangor Hydro-Electric Co., and Town of Hudson, Mass., Light and Power Department in connection with their application for construction permits and operating licenses for the Seabrook station, units 1 and 2. The site for this plant is located in Rockingham County, N.H.

The original antitrust portion of the application was submitted on July 9, 1973, and Notice of Receipt of Application for Construction Permits and Facility Licenses and Availability of Applicant's Environmental Report; Time for Submission of Views on Antitrust Matters, was published in the FEDERAL REGISTER on August 9, 1973 (38 FR 21522). The notice of hearing was published in the FEDERAL REGISTER on August 9, 1973 (38 FR 21519).

Copies of the above stated documents are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the Exeter Public Library, Front Street, Exeter, N.H.

Information in connection with the antitrust review of this application can be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Antitrust and Indemnity Group, Office of Nuclear Reactor Regulation.

Any person who wishes to have his views on the antitrust matters with respect to the Massachusetts Municipal Wholesale Electric Co., Vermont Electric Cooperative, Inc., Maine Public Service Co., Taunton Municipal Lighting Plant Commission, and Bangor Hydro-Electric Co., presented to the Attorney General for consideration should submit such views to the U.S. Nuclear Regulatory Commission on or before November 6, 1978.

Dated at Bethesda, Md., this 21st day of August 1978.

For the Nuclear Regulatory Commission.

STEVEN A. VARGA,
Chief, Light Water Reactors Branch No. 4, Division of Project Management.

[FR Doc. 78-24769 Filed 9-18-78; 8:45 am]

[7590-01]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS; SUBCOMMITTEE ON WASTE MANAGEMENT

Meeting

The ACRS Subcommittee on Waste Management will hold an open meeting on October 11-12, 1978 in Room 1046, 1717 H Street NW., Washington, D.C. 20555, to review NRC research regarding waste management for inclusion in the annual ACRS report to Congress on safety research. Notice of this meeting was published August 15 and September 21, 1978 (43 FR 36151 and 42826, respectively).

In accordance with the procedures outlined in the FEDERAL REGISTER on October 31, 1977 (42 FR 56972), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the designated Federal employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows: Wednesday, October 11, and Thursday, October 12, 1978, 8:30 a.m. until the conclusion of business each day.

The subcommittee may meet in executive session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to formulate a report and recommendations to the full committee.

At the conclusion of the executive session, the subcommittee will hear presentations by and hold discussions with representatives of the NRC staff, the Department of Energy, and their consultants, pertinent to the agenda items. The subcommittee may then caucus to determine whether the matters identified in the initial session have been adequately covered and whether the project is ready for review by the full committee.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by a prepaid telephone call to the designated Federal employee for this meeting, Mr. Ragnwald Muller, telephone 202-634-1414, between 8:15 a.m. and 5 p.m., e.d.t.

Dated: September 25, 1978.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc. 78-27235 Filed 9-25-78; 10:21 am]

[3190-01]

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

ADVISORY COMMITTEE FOR TRADE NEGOTIATIONS

Meeting

Pursuant to the Federal Advisory Committee Act, 5 U.S.C. App. (the Act), notice is hereby given that a meeting of the Advisory Committee for Trade Negotiations will be held Wednesday, October 25, 1978, from 1 p.m. to 5 p.m. at the Office of the Special Representative for Trade Negotiations, 1800 G Street NW., Washington, D.C.

The purpose of this meeting will be to review and discuss the status of, and the United States strategy and objectives for, the multilateral trade negotiations currently underway in Geneva.

In accordance with section 10(d) of the Act, the meeting will not be open to the public because information falling within the purview of 5 U.S.C. 552b(c)(1) (the exception to the Government in the Sunshine Act for matters specifically required by Executive order to be kept secret in the interest of foreign policy) will be reviewed and discussed.

More detailed information can be obtained by contacting Phyllis O. Bonanno, Executive Director, Advisory Committee for Trade Negotiations, Office of the Special Representative for Trade Negotiations, 1800 G Street, Room 725, Washington, D.C. 20506.

PHYLLIS O. BONANNO,
Executive Director, Advisory Committee for Trade Negotiations.

ADVISORY COMMITTEE FOR TRADE NEGOTIATIONS

DETERMINATION OF CLOSING OF MEETING

The meeting of the Advisory Committee for Trade Negotiations (the Advisory Committee) to be held Wednesday, October 25, 1978, from 1 p.m. to 5 p.m. at the Office of the Special Representative for Trade Negotiations, 1800 G Street NW., Washington, D.C., will involve a review and discussion of the status of, and United States strategy and objectives for, the multilateral trade negotiations currently underway in Geneva. Such review and discussion will deal with information properly classified pursuant to Executive Order 11652 and specifically required by such order to be kept secret in the interests of national security (i.e., the conduct of foreign relations) of the United States. All members of the Advisory Committee have appropriate security clearances. Accordingly, I hereby determine that this meeting of the Advisory Committee will be concerned with matters listed in section 552b(c)(1) of Title 5 of the United States Code.

ROBERT S. STRAUSS,
Special Representative for Trade Negotiations.

[FR Doc. 78-26966 Filed 9-25-78; 8:45 am]

[8025-01]

SMALL BUSINESS ADMINISTRATION

REGION II ADVISORY COUNCIL MEETING

Public Meeting

The Small Business Administration Region II Advisory Council, located in the geographical area of Newark, N.J., will hold a public meeting at 9:30 a.m., on Thursday, October 19, 1978, at the Ramada Inn, 36 Valley Road, Clark, N.J. 07066, to discuss such business as may be presented by members and the staff of the Small Business Administration or others attending.

For further information, write or call Andrew P. Lynch, District Director, U.S. Small Business Administration, 970 Broad Street, Newark, N.J. 07102, 201-645-3580.

Dated: September 18, 1978.

K DREW,
Deputy Advocate for Advisory Councils.

[FR Doc. 78-27053 Filed 9-25-78; 8:45 am]

[8025-01]

REGION V ADVISORY COUNCIL

Public Meeting

The Small Business Administration Region V Advisory Council, located in the geographical area of Chicago, Ill., will hold a public meeting from 10 a.m. to 12:30 p.m., on Thursday, October 12, 1978, in Room 1220, Everett McKinley Dirksen Building, 219 South Dearborn Street, Chicago, Ill., to discuss such business as may be presented by members and the staff of the Small Business Administration or others attending.

For further information, write or call Mr. John L. Smith, District Director, U.S. Small Business Administration, 219 South Dearborn Street, Chicago, Ill. 60604, 312-353-4508.

Dated: September 20, 1978.

K DREW,
Deputy Advocate for Advisory Councils.

[FR Doc. 78-27050 Filed 9-25-78; 8:45 am]

[8025-01]

REGION V ADVISORY COUNCIL EXECUTIVE BOARD

Public Meeting

The Small Business Administration Region V Advisory Council Executive Board will hold a public meeting from 1 p.m. to 4:30 p.m. on Friday, November 17, 1978, in Room 1220, Dirksen Federal Building, 219 South Dearborn Street, Chicago, Ill., to discuss such business as may be presented by members and the staff of the Small Business Administration or others attending.

For further information, write or call Ms. Donna Harrigan, Regional Director, U.S. Small Business Administration, 219 South Dearborn Street, Chicago, Ill. 60604, 312-353-0357.

Dated: September 19, 1978.

K DREW,
Deputy Advocate for Advisory Councils.

[FR Doc. 78-27055 Filed 9-25-78; 8:45 am]

[8025-01]

REGION V ADVISORY COUNCIL

Public Meeting

The Small Business Administration Region V Advisory Council, located in the geographical area of Detroit, Mich., will hold a public meeting at 9 a.m. on Thursday, October 19. 1978, at the Hilton Inn, Lansing, Mich., to discuss such business as may be presented by members, and the staff of the

Small Business Administration, or others attending.

For further information, write or call Raymond L. Harshman, District Director, U.S. Small Business Administration, 515 Patrick V. McNamara Building, 477 Michigan Avenue, Detroit, Mich. 48226, 313-226-7240.

Dated: September 18, 1978.

K DREW,
Deputy Advocate for Advisory Councils.

[FR Doc. 78-27054 Filed 9-25-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1527]

MICHIGAN

Declaration of Disaster Loan Area

Ottawa County and adjacent counties within the State of Michigan constitute a disaster area as a result of natural disaster as indicated:

County: Ottawa.
Natural disaster(s): Frost.
Date(s): June 14, 1978.

Eligible persons, firm and organizations may file applications for loans for physical damage until the close of business on November 20, 1978, and for economic injury until the close of business on June 18, 1979, at:

Small Business Administration, District Office, 477 Michigan Avenue—McNamara Building, Detroit, Mich. 48226.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos., 59002 and 59008)

Dated: September 19, 1978.

PATRICIA M. CLOHERTY,
Acting Administrator.

[FR Doc. 78-27049 Filed 9-25-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1522]

MICHIGAN

Declaration of Disater Loan Area

Alger and Houghton Counties and adjacent counties within the State of Michigan constitute a disaster area as a result of damage caused by hail, wind, and rainstorm which occurred on July 19, 1978. Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on March 15, 1979, and for economic injury until the close of business on June 15, 1979, at:

Small Business Administration, District Office, 477 Michigan Avenue—McNamara Building, Room 515, Detroit, Mich. 48226.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: September 15, 1978.

PATRICIA M. CLOHERTY,
Acting Administrator.

[FR Doc. 78-27051 Filed 9-25-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1521; Amdt. No. 1]

TEXAS

Declaration of Disaster Loan Area

The above numbered Declaration (see 43 FR 40583), is amended by adding the following counties:

County	Natural disaster(s)	Date(s)
Clay	Drought	2/25/78-7/20/78
Coleman	Drought	1/01/78-7/26/78
Garza	Drought	1/01/78-8/01/78
Gillespie	Flood	8/02/78-8/03/78
Harrison	Drought	5/01/78-8/04/78
Hunt	Drought	6/01/78-8/08/78
King	Drought	1/01/78-8/09/78
Do	Hailstorm	7/16/78
Knox	Drought	7/01/77-8/02/78
Do	Flood	8/03/78-8/04/78
Lamar	Drought	6/01/78-7/24/78
Live Oak	Drought	7/20/78-8/11/78
Marion	Drought	5/01/78-8/08/78
Runnels	Drought	1/21/78-8/02/78
Sabine	Drought	4/05/78-8/04/78
Walker	Drought	4/01/78-7/27/78
Wilson	Drought	5/15/78-7/19/78

And adjacent counties within the State of Texas as a result of natural disasters as indicated. All other information remains the same; i.e., the termination dates for filing applications for physical damage is close of business on March 6, 1979, and for economic injury until the close of business on June 6, 1979.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: September 15, 1978.

PATRICIA M. CLOHERTY,
Acting Administrator.

[FR Doc. 78-27052 Filed 9-25-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1528]

WISCONSIN

Declaration of Disaster Loan Area

Racine County and adjacent counties within the State of Wisconsin constitute a disaster area as a result of damage caused by flash flooding which occurred on August 18-19, 1978. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on November 20, 1978, and for economic injury until the close of business on June 18, 1979, at:

Small Business Administration, District Office, 122 West Washington Avenue, Room 700, Madison, Wis. 53703.

Or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: September 19, 1978.

PATRICIA M. CLOHERTY,
Acting Administrator.

[FR Doc. 27048 Filed 9-25-78; 8:45 am]

[4510-29]
[4830-01]

Internal Revenue Service

DEPARTMENT OF LABOR

Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 78-13; Application No. D-175]

RAGNAR BENSON PROFIT SHARING PLAN AND TRUST

Exemption From Prohibitions

AGENCIES: Department of Labor; Department of the Treasury/Internal Revenue Service.

ACTION: Grant of individual exemption.

SUMMARY: This exemption enables the Ragnar Benson Profit Sharing Plan and Trust (the Trust) to acquire, from a group of independent banks, a $1 million participation interest in a long-term mortgage loan to Woodlane Corp. (Woodlane), a company 50 percent of whose stock is owned by Ragnar Benson, Inc. (Ragnar Benson), the employer of employees covered by the Trust. Certain related transactions are also exempted by this action.

FOR FURTHER INFORMATION CONTACT:

Frederic G. Burke, Office of Regulatory Standards and Exceptions, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216, 202-523-8195. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On January 4, 1977, notice was published in the FEDERAL REGISTER (42 FR

956) of the pendency before the Department of Labor (the Department) and the Internal Revenue Service (the Service) (collectively referred to as "the Agencies"), of an exemption from the restrictions of section 406 of the Employee Retirement Income Security Act of 1974 (the Act) and from the taxes imposed by section 4975 (a) and (b) of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) of the Code, for transactions described in an application submitted by Ragnar Benson and the trustee and plan committee under the Trust (collectively referred to as "Applicants"). The notice, which was supplemented by a correction published in the FEDERAL REGISTER on January 11, 1977 (42 FR 2389), set forth a summary of the facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The applications and all documents and letters containing facts, representations, and comments that were submitted to the Agencies after the publication of the notice, as well as the record of the public hearing referred to below, have been available for public inspection at the Agencies in Washington, D.C.

The exemption was proposed in accordance with the procedures set forth in Rev. Proc. 75-26, 1975-1 C.B. 722, and ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). All interested persons were invited by the notice to submit written comments on the proposed exemption and to submit a written request that a hearing be held relating to the exemption.

Following the receipt of requests for a hearing from a majority of participants in the Trust, and pursuant to a notice published in the FEDERAL REGISTER on May 6, 1977 (42 FR 23220), a public hearing was held on May 27, 1977, at which interested persons were afforded the opportunity to present their views on the proposed exemption.

COMMENTS RECEIVED

None of the comments raised objections to the grant of an exemption with respect to the Trust's proposed investment in a long-term mortgage loan to Woodlane for the financing of the third addition to the Bell System Center for Technical Education (the third addition). Nor were any objections raised regarding the other related transactions covered by the proposed exemption. Rather, the comments urged the Agencies to expand the proposed exemption so as to permit the Trust to invest $4 million of its assets in the mortgage loan—which assets are currently held in cash and short-term certificates of deposit—instead of the sum of $1 million which was proposed in the notice of pendency. A loan participation of $1 million, together with the $450,000 which remains outstanding on a previous loan by the Trust to Woodlane, would represent approximately 25 percent of Trust assets. A loan participation of $4 million, in addition to the $450,000 outstanding loan, would represent approximately 65 percent of Trust assets.

In testimony at the public hearing, and by written submissions to the Agencies subsequent to the hearing, the Applicants, including members of the plan committee, officers of Ragnar Benson, Inc., and Raymond Benson, the trustee under the Trust and principal officer of Ragnar Benson, Inc. as well as an officer of Woodlane, offered evidence and argument designed to demonstrate that adequate safeguards would be present to protect plan participants despite an investment of substantially more than half of the Trust's assets in the single employer-related real estate venture in question.

The following summary of the facts and representations submitted to the Agencies by written comments and testimony at the public hearing amend or supplement those facts and representations which were summarized in the notice of pendency.

(a) The financing of the third addition to the Bell Training Center was completed by September 1976. The National Security Bank of Chicago (National Security Bank), as mortgagee and noteholder under a March 26, 1976, mortgage indenture with Woodlane, together with 13 banks in the Chicago area who signed an agreement with National Security Bank to participate in the financing, provided $6,375,000 in a combined construction and 15-year permanent mortgage loan to Woodlane.

(b) On October 1, 1976, Western Electric occupied the third addition and began paying rent in accordance with the terms of the 15-year lease with Woodlane.

(c) By an assignment instrument made on March 26, 1976, and filed with the Du Page, Ill., county clerk on October 5, 1976, Woodlane assigned the lease and all rents payable thereunder to National Security Bank.

(d) Under the terms of the participation agreement, National Security Bank, as the "lead" bank, holds the note evidencing the mortgage loan and the collateral therefor, receives all payments representing principal and interest on the loan, and remits to the participating banks their pro rata shares of the proceeds with interest computed at the rate of 9½ percent annually.

(e) Each of the participating banks has an equal and coordinate first lien interest in the security in proportion to its share of the total indebtedness.

(f) The participation agreement provides that in the event that the Trust decides at any time to participate in the mortgage loan in an amount not to exceed $4 million, each then existing participant will, at the request of National Security Bank, reduce its participation on a pro rata basis.

(g) The Applicants submitted letters from two institutional mortgage lenders, each of whom expressed interest in providing all of the financing required for the third addition. However, none of the banks which actually participate in the financing furnished more than $1 million of the $6.375 million provided to Woodlane.

(h) The Applicants represent that two finanicial institutions have expressed interst in purchasing either the third addition and the 1 acre of land thereunder or the entire Bell System Center for Technical Education at a price in excess of 10 times the annual rentals attributable to those parcels.

The Agencies have reviewed the complete record of this proceeding in light of the statutory criterial in § 408(a) of the Act and section 4975(c)(2) of the Code. Before an administrative exemption can be granted under those sections, the Department and the Service, respectively, must find that the requested exemption is administratively feasible, in the interests of the plan and its participants and beneficiaries and protective of the rights of plan participants and beneficiaries. In this connection, the Department reviewed the record in light of the congressional concern expressed in section 404(a)(1)(C) of the Act, which is solely within the jurisdiction of the Department, that plan fiduciaries diversify plan investments so as to minimize the risk of large losses unless under the circumstances it is clearly pruduent not to do so. Based on their respective reviews of the record, the Agencies cannot jointly agree that the statutory findings required for an administrative exemption can be made for a loan participation by the Trust of $4 million. The Agencies do agree, however, that the statutory findings can be made with respect to a loan participation for $1 million. Accordingly, the Agencies have decided to grant the exemption set forth below for a loan participation of $1 million, as originally proposed.

GENERAL INFORMATION

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest

or disqualifed person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act which require, among other things, that a fiduciary discharge his duties respecting the plan solely in the interests of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the empolyer maintaining the plan and their beneficiaries.

(2) The exemption set forth herein is supplemental to, and not in derogation of, any other provisions of the Code and the Act, including statutory exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasure directive appearing in the FEDERAL REGISTER for Wednesday, May 24, 1978 (43 FR 22319).

EXEMPTION

Pursuant to section 4975(c)(2) of the Code and section 408(a) of the Act and the procedures set forth in Rev. Proc. 75-26, 1975-1 C.B. 722 and ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the facts and respresentations contained in the application for exemption submittee by the Applicants, the public comments received and the record of hearing, the Agencies find that it is administratively feasible, in the interests of the Trust and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the Trust to grant, and hereby grant, and exemption effective this date so that the restrictions of section 406 of the Act and the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) of the code, shall not apply to: The proposed aquisition by the Trust of a $1 million participation interest in the long-term mortgage loan to Woodlane and the release by the Trust of its prior rights in the security for such loan; and the furnishing of guaranties by Ragnar Benson to the Trust as additional security for its proposed investment in the mortgage loan to Woodlane, pursuant to the terms, conditions, and representations set forth in the application.

The availability of this exemption is subject to the express conditions that the materials facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction consummated or to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 20th day of September 1978.

IAN LANOFF,
Administrator, Pension and Welfare Benefits Programs, Labor-Management Services Administration, Department of Labor.

FRED J. OCHS,
Director, Employee Plans Division, Internal Revenue Service.

[FR Doc. 78-26970 Filed 9-25-78; 8:45 am]

[8320-01]

VETERANS ADMINISTRATION

CAREER DEVELOPMENT COMMITTEE

Meeting

The Veterans Administration gives notice, pursuant to Pub. L. 92-463, that a meeting of the Career Development Committee, authorized by 38 U.S.C. 4101, will be held in room A-35 of the Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420, October 30-31, 1978, at 8:30 a.m. The meeting will be for the purpose of scientific review of applications for appointment to the Career Development Program in the Veterans Administration system. The Committee advises the Director, Medical Research Service, on selection and appointment of Associate Investigators, Research Associates, Clinical Investigators, Medical Investigators, Senior Medical Investigators, and William S. Middleton Award Nominees.

The meeting will be open to the public up to the seating capacity of the room from 8:30 a.m. to 9 a.m. to discuss the general status of the program. Because of the limited seating capacity of the room, those who plan to attend should contact Mr. David D. Thomas, Executive Secretary of the Committee, VA Central Office, Washington, D.C., 202-389-2317, prior to October 20, 1978.

The meeting will be closed from 9 a.m. to 5 p.m. on October 30-31 for consideration of individual applications for positions in the Career Development Program. This necessarily requires examination of personnel files and discussion and evaluation of the qualifications, competence, and potential of the several candidates, disclosure of which information would constitute a clearly unwarranted invasion of personal privacy. Accordingly, closure of this portion of the meeting is permitted by section 10(d) of the Federal Advisory Committee Act, Pub. L. 92-463, as amended, in accordance with section (c)(6) of the Government in the Sunshine Act, 5 U.S.C. 552b.

Minutes of the meeting and rosters of the committee members may be obtained from Mr. David D. Thomas, Chief, Career Development Program, Medical Research Service, Veterans Administration, Washington, D.C. Phone 202-389-2317.

Dated: September 20, 1978.

By direction of the Administrator:

JOHN J. LEFFLER,
Associate Deputy Administrator.

[FR Doc. 78-27001 Filed 9-25-78; 8:45 am]

[8320-01]

COOPERATIVE STUDIES EVALUATION COMMITTEE

Meeting

The Veterans Administration gives notice pursuant to Pub. L. 92-463 that a meeting of the Cooperative Studies Evaluation Committee, authorized by 38 U.S.C. 4101, will be held at the Burlington Hotel, Vermont Avenue, at Thomas Circle NW., Washington, D.C., on October 23 and 24, 1978. The meeting will be for the purpose of reviewing proposed cooperative studies and advising the Veterans Administration on the relevance and feasibility of the studies, the adequacy of the protocols, the scientific validity and the technical details, including involvement of human subjects. The Committee advises the Director, Medical Research Service, through the Chief of the Cooperative Studies Program, on its findings.

The meeting will be open to the public up to the seating capacity of the room from 8 to 8:30 a.m., October 23 and 24, to discuss the general status of the program. To assure adequate accommodations, those who plan to attend should contact Dr. James A. Hagans, Coordinator of the Committee, Veterans Administration Central Office, Washington, D.C., 202-389-3702, prior to October 13.

The meeting will be closed from 8:30 a.m. to 4:30 p.m., October 23, and 8:30 a.m. to 1 p.m., October 24, for consideration of specific proposals in accordance with provisions set forth in subsection 10(d) of Pub. L. 92-463, as amended by Pub. L. 94-409, and subsection 552b(c)(6) of title 5, United States Code. During this portion of the meeting, discussion and decisions will deal with qualifications of personnel conducting the studies and the medical records of patients who are

study subjects, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dated: September 20, 1978.

By direction of the Administrator:

RUFUS H. WILSON,
Deputy Administrator.

[FR Doc. 78-27000 Filed 9-25-78; 8:45 am]

[8320-01]

PROPOSED NATIONAL CEMETERY, BOURNE, MASS.

Finding of No Significant Impact

The proposed project converts a 749-acre area of excessed Otis Air Force Base land used occasionally as a military training facility and camping/hunting area to a restricted park-like environment of a National Cemetery. Publicity given the project has created no adverse public comment. The project appears compatible with existing and proposed uses of adjacent lands. A Master Plan has been developed for the project which gives full consideration to existing constraints and leaves the most environmentally sensitive areas undisturbed.

It was originally determined that this project would require an Environmental Impact Statement. However, in the development of the statement, an analysis of the nature and degree of significance of the impacts indicated that these could be adequately addressed in an assessment.

A brief summary of the impacts follows as a result of this change in land use:

There will be a withdrawal of 750 acres from the existing 3,000 acres of hunting area existing at the Otis Air Force Base.

Vegetation and wildlife will be affected by the clearing of approximately one-half of the existing vegetation on the site but will be ameliorated to some extent by substantial landscape plantings of indigenous or adaptable plant materials. However, the site transects the north to south movement of the only remaining deer herd on the Cape and the fencing of the site will impede, though not completely prevent, this deer migration. Existing birds and small mammals will generally adapt to the "edge" habitat created.

Cemetery-generated traffic will increase overall traffic on an averge day by about 3 percent, but would have significance only as it contributes to the seasonally heavy tourist traffic to the Cape.

An analysis of all environmental factors related to the development of a National Cemetery on the site indicates a Finding of No Significant Impact.

Questions and requests for single copies of the Environmental Assessment should be addressed to: Mr. Jack S. Westall, Assistant Chief Medical Director for Administration (13), 810 Vermont Avenue NW., Washington, D.C. 20420, 202-389-2706.

By direction of the Administrator:

Dated: September 20, 1978.

MAURY S. CRALLE, Jr.,
Assistant Deputy Administrator for Financial Management and Construction.

[FR Doc. 78-26999 Filed 9-25-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Notice No. 717]

ASSIGNMENT OF HEARINGS

SEPTEMBER 21, 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 interestes.

MC 116254 (Sub-188), Chem-Haulers, Inc., now being assigned for hearing on November 13, 1978 (1 day), at Lousiville, KY, in a hearing room to be later designated.

MC 115841 (Sub-575), Colonial Refrigerated Transportation, now being assigned for hearing on November 14, 1978 (1 day), at Louisville, KY, in a hearing room to be later designated.

MC 134402 (Sub-5F), Williams Truck Line, Inc., now being assigned October 18, 1978 (2 days), at Des Moines, IA, in Room 453 Federal Building, 210 Walnut Street.

MC-C-7287, AAAcon Auto Transport, Inc., investigation and revocation of certificates, now being assigned prehearing conference, October 4, 1978, at the offices of the Interstate Commerce Commission, Washington, DC.

MC 128279 (Sub-30), Arrow Freightways, Inc., is assigned for hearing October 2, 1978, at Albuquerque, NM,, and will be held at Sheraton Old Town Inn, 800 Rio Grande Boulevard NW.

MC 116254 (Sub-188), Chem-Haulers, Inc., now being assigned for hearing on November 13, 1978 (1 day), at Lousiville, KY, in a hearing room to be later designated.

MC 115841 (Sub-575), Colonial Refrigerated Transportation, Inc., now being assigned for hearing on November 14, 1978 (1 day), at Louisville, KY, in a hearing room to be later designated.

MC 116915 (Sub-45), Eck Miller Transportation Corp., now being assigned for hearing on November 15, 1978 (1 day), at Louisville, KY, in a hearing room to be later designated.

MC 112617 (Sub-382F), Liquid Transporters, Inc., now being assigned for hearing on November 16, 1978 (1 day), at Louisville, KY, in a hearing room to be later designated.

MC 112304 (Sub-139F), Ace Doran Hauling & Rigging Co., now being assigned for hearing on November 17, 1978 (1 day), at Louisville, KY, in a hearing room to be later designated.

MC 134286 (Sub-53F), Illini Express, Inc., and MC 144364 (Sub-2F), Art Betz, now being assigned October 20, 1978 (1 day), at Des Moines, IA, in Room 453 Federal Building, 210 Walnut Street.

MC 28536 (Sub-16), Fox & Ginn, and MC 108473 (Sub-39), is assigned for continued hearing on October 16, 1978 (5 days), in Portland, ME, and will be held in Room 232 Bankruptcy Court, 156 Federal Street.

MC 111231 (Sub-222), Jones Truck Line, Inc., is assigned for hearing October 11, 1978, at Atlanta, GA, and will be held at Marriott Hotel, Stone Mountain Room, Courtland International Boulevard.

MC-F-13588, M B Transport Services, Inc.—Control—Con-AG Transport, Inc., now being assigned for hearing on January 9, 1979 (4 days), at Portland, OR, in a hearing room to be later designated.

MC 115931 (Sub-56F), Bee Line Transportation, Inc., now being assigned for hearing on January 15, 1978 (5 days), at Portland, OR, in a hearing room to be later designated.

MC 133796 (Sub-46), George Appel, now assigned for hearing on October 4, 1978, at Washington, DC, is canceled and transferred to modified procedure.

MC 133796 (Sub-47), George Appel, now assigned for hearing on October 5, 1978, at Washington, DC, is canceled and transferred to modified procedure.

MC 47583 (Sub-69F), Tollie Freightways, Inc., now assigned for hearing on October 17, 1978, at Chicago, IL, is canceled and transferred to modified procedure.

MC 35638 (Sub-398F), Interstate Motor Freight System, transferred to modified procedure.

MC 2253 (Sub-79F), Carolina Freight Carriers Corp., transferred to modified procedure.

W-1323F, Sause Bros. Ocean Towing Co., Inc., transferred to modified procedure.

MC 143691 (Sub-6), Pony Express Courier Corp., transferred to modified procedure.

MC 144140 (Sub-6F), Southern Freightways, Inc., now being assigned for hearing on December 6, 1978 (3 days), at Orlando, FL, in a hearing room to be later designated.

MC 119670 (Sub-33F), the Victor Transit Corp., now assigned for prehearing conference on October 16, 1978, at Washington, DC, is canceled and transferred to modified procedure.

MC-F-13467, Bhy Trucking, Inc.—Purchase (portion)—Western Gillette, Inc., now assigned October 3, 1978, at Washington, DC, is postponed indefinitely.

MC 110817 (Sub-25F), E. L. Farmer & Co., now assigned December 11, 1978, at Denver, CO, is advanced to October 16, 1978, at Denver, CO (2 weeks), in a hearing room to be later designated.

MC 113822 (Sub-6F), Dalgarno Transportation, Inc., now being assigned October 16,

1978 (2 weeks), at Denver, CO, in a hearing room to be later designated.

MC 105006 (Sub-7F), L. L. Smith Trucking, a corporation, MC 143443 (Sub-1F), Gary L. McCallister and Monte A. McCallister, d.b.a. McCallister Bros., and MC 143993 (Sub-4F), Black Hills Trucking, Inc., now being assigned October 16, 1978 (2 weeks), at Denver, CO, in a hearing room to be later designated.

MC 119789 (Sub-424F), Caravan Refrigerated Cargo, Inc., is assigned for hearing October 11, 1978, at Chicago, IL, and will be held at Room 572, 219 South Dearborn Street.

MC 51146 (Sub-577F), Schneider Transport, Inc., is assigned for hearing October 16, 1978, at Chicago, IL, and will be held at Room 350, 230 South Dearborn Street.

MC 142706 (Sub-2F), Early Bird Tran[illegible], Inc., is assigned for hearing October 16, 1978, at Chicago, IL, and will be held at Room 209, 536 South Clark Street.

MC 136315 (Sub-21), Olen Burrage Trucking, Inc., is assigned for hearing October 16, 1978, at New Orleans, LA, and will be held at Downtowner Motor Inn, 541 Bourbon Street.

MC 116915 (Sub-38), Eck Miller Transportation Corp., is assigned for hearing October 11, 1978, at Birmingham, AL, and will be held at Room 430, Federal Building, Fifth Avenue and 19th Street North.

MC 140829 (Sub-94F), Cargo Contract Carrier Corp., is assigned for hearing October 16, 1978, at Chicago, IL, and will be held at Room 1669, 219 South Dearborn Street.

MC 144512F, Bud's Service, Inc., is assigned for hearing October 12, 1978, at Chicago, IL, and will be held at Room 3855A, Federal Building, 230 South Dearborn Street.

MC 19157 (Sub-46), McCormack's Highway Transportation, Inc., and MC 83539 (Sub-470), C & H Transportation Co., Inc., and MC 95876 (Sub-215), Anderson Trucking Service, Inc., and MC 100666 (Sub-390F), Melton Truck Lines, Inc., and MC 106644 (Sub-244), Superior Trucking Co., Inc., and MC 134922 (Sub-240), B. J. McAdams, Inc., is assigned for hearing October 12, 1978, at Birmingham, AL, and will be held at Room 430, Federal Building, Fifth Avenue and 19th Street North.

MC-F-13100, the Cleveland, Columbus & Cincinnati Highway, Inc.—Purchase (portion)—Great Lakes Express Co., and MC 3419 (Sub-11), the Cleveland, Columbus & Cincinnati Highway, Inc., and MC-F-13102, Maiers Motor Freight Co.—Purchase (portion)—Great Lakes Express Co., and MC-F-13103, United Trucking Service, Inc.—Purchase (portion)—Great Lakes Express Co., and MC-F-13106, Branch Motor Express Co.—Control—Great Lakes Express Co., and MC-F-13233, Arkansas Best Freight—Purchase (portion)—Great Lakes Express Co., and MC-F-13568, Tucker Freight Lines, Inc.—Purchase (portion)—Great Lakes Express Co., is assigned for hearing October 17, 1978, at Chicago, IL, and will be held at Room 1669, 219 South Dearborn Street.

MC 109324 (Sub-30) (M1), Garrison Motor Freight, Inc., is assigned for hearing October 16, 1978, at Joplin, MO, and will be held at Howard Johnson's Motor Lodge, 3500 Rangeline.

MC 19311 (Sub-40), Central Transport, Inc., is assigned for hearing on October 16, 1978, in Lansing, MI, and will be held at Corporation & Security Commission, 6546 Mercantile Way.

MC 142059 (Sub-24F), Cardinal Transport, Inc., now assigned for hearing on October 11, 1978, at Chicago, IL, is canceled and application dismissed.

MC 139495 (Sub-322F), National Carriers, Inc., now assigned for hearing on October 23, 1978, at Liberal, KS, is canceled and application dismissed.

MC 113678 (Sub-741), Curtis, Inc., now assigned for hearing on October 2, 1978, at New York, NY, is canceled and application dismissed.

MC 119789 (Sub-416), Caravan Refrigerated Cargo, Inc., now assigned for hearing on October 17, 1978, at Des Moines, IA, is canceled and application dismissed.

MC 93674 (Sub-3), Boyer Truck Line, Inc., now assigned for hearing on October 30, 1978, at Denver, CO, is canceled and application dismissed.

MC 103051 (Sub-437F), Fleet Transport Co., Inc., now assigned for hearing on November 1, 1978, at Washington, DC, is canceled and transferred to modified procedure.

MC-C-9860, *Carolina Coach Co. et al.* v. *Williams Bus Rental*, is assigned for hearing October 18, 1978, at Rocky Mount, NC, and will be held at City Council Chamber, City Hall, Northeast Main Street.

MC-C-9997, *Telfer Tank Lines Inc. et al.* v. *Western Asphalt Service*, is assigned for hearing October 16, 1978, at Carson City, NV, and will be held at Room 302, Federal Building, 705 North Plaza Street.

MC 143961 (Sub-7F), Pony Express Courier Corp., is assigned for hearing October 16, 1978, at Memphis, TN, and will be held at Room 396, Federal Building, 167 North Main Street.

MC 128273 (Sub-289F), Midwestern Distribution, Inc., is assigned for hearing October 11, 1978, at Chicago, IL, and will be held at room 1944C, E. M. Dirksen Building, 219 South Dearborn Street.

MC 102817 (Sub-28), Perkins Furniture Transport, Inc., is assigned for hearing October 16, 1978, at Chicago, IL, and will be held at Room 1944C, E. M. Dirksen Building, 219 South Dearborn Street.

MC-C-9986, *Clark Transfer, Inc.* v. *Higgins Transportation, Ltd.*, is assigned for hearing October 30, 1978, at Chicago, IL, and will be held at Room 1319, E. M. Dirksen Building, 219 South Dearborn Street.

MC 113434 (Sub-96F), Gra-Bell Truck Line, Inc., is assigned for hearing November 6, 1978, at Chicago, IL, and will be held at Room 1319, E. M. Dirksen Building, 219 South Dearborn Street.

MC 95540 (Sub-1009F), Watkins Motor Lines, Inc., is assigned for hearing October 31, 1978, at Chicago, IL, and will be held at Room 1319, E. M. Dirksen Building, 219 South Dearborn Street.

MC 114632 (Sub-144), Apple Lines, Inc., is assigned for hearing November 8, 1978, at Chicago, IL, and will be held at Room 1319, E. M. Dirksen Building, 219 South Dearborn Street.

MC 96328 (Sub-5F), Illinois Short Line, Inc., is assigned for hearing November 2, 1978, at Chicago, IL, and will be held at Room 1319, E. M. Dirksen Building, 219 South Dearborn Street.

MC 115162 (Sub-389), Poole Truck Life, Inc., is assigned for hearing November 1, 1978, at Birmingham, AL, and will be held at Room 430, Federal Building, Fifth Avenue and 19th Street North.

MC 126305 (Sub-85), Boyd Bros. Transportation Co., Inc., is assigned for hearing November 7, 1978, at Birmingham, AL, and will be held at Room 430, Federal Building, Fifth Avenue and 19th Street North.

MC 138882 (Sub-20), Wiley Sanders, Inc., is assigned for hearing October 31, 1978, at Birmingham, AL, and will be held at Room 430, Federal Building, Fifth Avenue and 19th Street North.

MC 143423 (Sub-3), William T. Austin, d.b.a. Austin Trucking Co., is assigned for hearing November 6, 1978, at Birmingham, AL, and will be held at Room 430, Federal Building, Fifth Avenue and 19th Street North.

MC 112520 (Sub-346), McKenzie Tank Lines, Inc., is assigned for hearing October 30, 1978, at Birmingham, AL, and will be held at Room 430, Federal Building, Fifth Avenue and 19th Street North.

MC 116004 (Sub-45), Texas Oklahoma Express, Inc., is assigned for hearing October 10, 1978, at Dallas, TX, and will be held at Room 5A15-17, Federal Building, 1100 Commerce Street, and is assigned for continued hearing October 16, 1978, at Tulsa, OK, will be held at Room 3469, Page Belcher Building, 333 West Fourth Street.

MC 128306 (Sub-3), T.R.Y., Inc., d.b.a. Young's Transportation, is assigned for hearing October 11, 1978, at Asheville, NC, and will be held at the County Courthouse Hearing Room, Ninth Floor.

MC 138176 (Sub-6), Marvin Rentz, d.b.a. Rentz Farm Supply, is assigned for hearing October 18, 1978, at Atlanta, GA, and will be held at Room 305, 1252 West Peachtree Street NW.

MC 136384 (Sub-10), Palmer Motor Express, Inc., is assigned for hearing October 16, 1978, at Atlanta, GA, and will be held at Room 305, 1252 West Peachtree Street NW.

MC 58923 (Sub-45), Georgia Highway Express, Inc., now being assigned for continued hearing on November 13, 1978 (8 days), at Nashville, TN, in a hearing room to be later designated.

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

[FR Doc. 78-27038 Filed 9-25-78; 8:45 am]

[7035-01]

[Decisions Volume No. 32]

DECISION-NOTICE

Decided: September 13, 1978

The following applications are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the FEDERAL REGISTER. Failure to file a protest, with 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with Rule 247(e)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, (as specifically noted below), and shall

specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an applicaton under the procedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect adiministratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

We find:

With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the national transportation policy. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of the Interstate Commerce Act and the Commission's regulations. This decision is not a major Federal action significantly affecting the quality of the human environment.

It is ordered:

In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall be construed as conferring more than a single operating right.

By the Commission, Review Board Number 2, Members Boyle, Eaton, and Liberman.

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

MC 297 (Sub-9F), filed July 18, 1978. Applicant: WOODLAND TRUCK LINE, INC., 635 Park Street, P.O. Box 70, Woodland, WA 98674. Representative: Lawrence V. Smart, Jr., 419 Northwest 23d Avenue, Portland, OR 97210. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Doors and door components,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of doors, between points in WA, OR, ID, and UT. (Hearing site: Portland, OR.)

MC 7555 (Sub-70F), filed August 9, 1978. Applicant: TEXTILE MOTOR FREIGHT, INC., P.O. Box 70, Ellerbe, NC 28338. Representative: Terrence D. Jones, 2033 K Street NW., Washington, DC 20006. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, from the facilities of M&M/Mars, Division of Mars, Inc., at or near Cleveland, TN, to points in CT, DE, MD, NJ, NY, PA, MA, RI, ME, NH, VT, FL, AL, GA, NC, SC, and DC, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Washington, DC.)

NOTE.—(1) The person or persons who appear to be engaged in common control must either file an application under Section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary; (2) dual operations may be at isssue in this proceeding.

MC 7555 (Sub-71F), filed August 9, 1978. Applicant: TEXTILE MOTOR FREIGHT, INC., P.O. Box 70, Ellerbe, NC 28338. Representative: Terrence D. Jones, 2033 K Street NW., Washington, DC 20006. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk), from the facilities of C. B. Foods, Division of Curtice-Burns, Inc., in Genesee, Livingston, and Cattaraugus Counties, NY, to points in GA. (Hearing site: Washington, DC.)

NOTE.—The person or persons who appear to be engaged in common control must either file an application under section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary; (2) dual operations may be at issue in this proceeding.

MC 14552 (Sub-64F), filed July 10, 1978. Applicant: McNICHOLAS TRANSPORTATION CO., a corporation, 555 West Federal Street, Youngstown, OH 44501. Representative: Paul F. Beery, 275 East State Street, Columbus, OH 43215. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles* and (2) *equipment, materials, and supplies* used in the manufacture of iron and steel articles, between Weirton, WV, on the one hand, and, on the other, points in VA, NC, SC, GA, FL, AL, MS, LA, TN, AR, MO, and KY. (Hearing site: Columbus, OH.)

MC 14702 (Sub-76F), filed July 24, 1978. Applicant: OHIO FAST FREIGHT, INC., 3893 Market Street NW., Warren, OH 44484. Representative: Michael Spurlock, 275 East State Street, Columbus, OH 43215. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Aluminum and zinc ingots, aluminum shot, aluminum scrap, and silicon metal,* (1) from the facilities of U.S. Reduction Co., at (a) Alton, IL, (b) East Chicago, IN, and (c) Toledo, OH, to points in OH, MI, IN, IL, PA, NY, KY, TN, and WV, and (2) from the facilities used by U.S. Reduction Co., at (a) Hammond and Gary, IN, (b) Toledo, OH, and (c) Madison, IL, to points in OH, MI, PA, NY, KY, TN, and WV. (Hearing site: Columbus, OH.)

MC 41404 (Sub-147F), filed July 17, 1978. Applicant: ARGO-COLLIER TRUCK LINES CORP., Martin, TN 38237, Box 440. Representative: Mark L. Horne (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Citrus products,* (except frozen, and except commodities in bulk, in tank vehicles), equipped with mechanial refrigeration, from Winston-Salem, NC, to points in GA and LA. (Hearing site: Winston-Salem or Raleigh, NC.)

MC 44735 (Sub-35F), filed July 31, 1978. Applicant: KISSICK TRUCK LINES, INC., 7101 East 12th, Kansas City, MO 64126. Representative: John E. Jandera, 641 Harrison Street, Topeka, KS, 66603. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Iron and steel articles,* from the plantsite of Northwestern Steel and Wire Co., at Sterling, IL, to points in MO,

AR, LA, TX, ND, SD, and MN. (Hearing site: St. Louis, MO.)

MC 50307 (Sub-97F), filed July 17, 1978. - Applicant: INTERSTATE DRESS CARRIERS, INC., 247 West 35th Street, New York, NY 10001. Representative: Arthur Liberstein, P.O. Box 1409, Fairfield, NJ 07006. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel*, and *materials, supplies and equipment* used in the manufacture of wearing apparel (except commodities in bulk), between Columbia, SC, Martinsburg, WV, Front Royal and Woodstock, VA, Carlisle and York, PA, and New York, NY. Tacking is authorized at New York, NY, (A) with carrier's authority in MC 50307 (Sub-6), issued February 14, 1950, to provide a through service transporting (1) *Wearing apparel*, and *materials and supplies* used in the manufacture thereof, (except commodities in bulk), (a) between the points authorized above, on the one hand, and, on the other, points in PA on and east of U.S. Hwy 11, and (B) from the points authorized above to points in PA west of U.S. Hwy 11; and (2) *wearing apparel*, on hangers, and in individual boxes, from points in PA west of U.S. Hwy 11, to the points authorized above; (B) with carrier's authority in MC 50307 (Sub-No. 54), issued November 19, 1973, to provide a through service transporting: *Wearing apparel*, and *materials, supplies, and equipment* used in the manufacture of wearing apparel (except commodities in bulk), between points above, on the one hand, and, on the other, points in Bergen Essex, Hudson, Middlesex, Morris, Passaic, and Union Counties, NJ; and (c) with carrier's authority in MC 50307 (Sub-No. 73), issued November 4, 1975, to provide a through service transporting: *Wearing apparel*, and *materials, supplies, and equipment* used in the manufacture of wearing apparel, (except commodities in bulk), between the points authorized above, on the one hand, and, on the other, Oneota, Hudson Falls, Little Falls, St. Johnsville, Amsterdam, Cobelskill, Glens Falls, Frankfort, Johnstown, Herkimer Hoosick Falls, Salem, Fort Edward, Utica, Copperstown, Rome, Ballaston Spa, Whitehall, Mechanisville, Richfield Springs, Oswego, Granvill, Greenwich, Syracuse, and Watertown, NY, and points in Schenectady, Franklin, and Rensselaer Counties, NY. (Hearing site: New York, NY.)

MC 62601 (Sub-4F), filed July 24, 1978. Applicant: ALBERT L. RING, ANDREW C. RING, BERNARD J. RING, and RONALD J. RING, a partnership, d.b.a. FRANK RICHARD RING, P.O. Box 96, Neola, IA 51559. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Communication equipment*, and (2) *materials, equipments, and supplies* used in the manufacture and installation of commodities equipment, between Omaha, NE, and Underwood, IA, on the one hand, and, on the other, St. Paul and Minneapolis, MN. (Hearing site: Omaha, NE, or Minneapolis, MN.)

NOTE—Dual operations may be involved in this proceeding.

MC 76065 (Sub-34F), filed August 10, 1978. Applicant: EHRLICH-NEWMARK TRUCKING CO., INC., 505 West 37th Street, New York, NY 10018. Representative: Michael R. Werner, P.O. BOX 1409, 167 Fairfield Road, Fairfield, NJ 07006. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel, and materials, supplies, and equipment* used in the manufacture of wearing apparel (except commodities in bulk), between New York NY, Philadelphia and Mechanicsburg, PA, Baltimore, MD, and points in NJ, on the one hand, and, on the other, points in NC. (Hearing site: Philadelphia, PA.)

MC 102616 (Sub-953F), filed July 18, 1978. Applicant: COASTAL TANK LINES, INC., a Delaware corporation, 250 North Cleveland-Massillon Road, Akron, OH 44313. Representative: Dwight L. Koerber, Jr., 805 McLachlen Bank Building, 666 11th Street NW., Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer and fertilizer materials*, in bulk, (1) from Aurora, IN, to points in IL, IN, KY, MI, PA, VA, WV, and (2) from points in IL, IN, KY, OH, and WV, to Aurora, IN. (Hearing site: Columbus, OH, or Washington, DC.)

MC 106398 (Sub-827F), filed August 22, 1978. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, OK 74103. Representative: Irvin Tull (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plywood, paneling, and composition board*, from the facilities of the Van-Ply Corp., at Charlotte, NC, to points in AL, AR, GA, IL, IN, IA, KS, KY, LA, MI, MS, MO, NE, NC, OH, PA, SC, TN, VA, VT, WV, and WI. (Hearing site: Charlotte, NC.)

NOTE.—In view of the findings in MC 106398 (Sub-741), of which official notice is taken, the certificate to be issued in this proceeding will be limited to a period expiring 3 years from its effective date unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for the extension of said certificate and demonstrates that it has been conducting operations in full compliance with the terms and conditions of its certificate and with the requirements of the Interstate Commerce Act and applicable Commission regulations.

MC 107515 (Sub-1167F), filed August 11, 1978. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Road, 5th floor, Lenox Towers South, Atlanta, GA 30326. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from the facilities of Hudson Industries, Inc., in Pike County, AL, to points in the United States in and east of MN, IA, KS, OK, and TX. (Hearing site: Montgomery, AL, or Atlanta, GA.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 107515 (Sub-1168F), filed August 14, 1978. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Road, 5th floor, Lenox Towers South, Atlanta, GA 30326. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by drugstores and grocery and food business houses (except commodities in bulk), (1) from Morrow, GA, to Grand Prairie, TX, Boston, MA, Rockford and Elk Grove Village, IL, Milford and Orange, CT, South Brunswick, NJ, Anaheim, CA, Philadelphia and Lititz, PA, New York, NY, and points in FL, and (2) from Boston, MA, Milford and Orange, CT, Rockford and Elk Grove Village, IL, South Brunswick, NJ, New York, NY, Lititz, and Philadelphia, PA, Charleston, SC, and Savannah, GA, to points in AR, LA, TN, MS, AL, GA, NC, SC, FL, and KY, restricted in (1) and (2) above to the transportation of traffic originating at or destined to the named points. (Hearing site: New York, NY, or Washington, DC.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 107515 (Sub-1169F), filed August 14, 1978. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, Fifth Floor, Lenox Towers I, 3390 Peachtree Rd., NE., Atlanta, GA 30326. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities, in bulk), from the facilties of John Morrell & Co., at or near East St. Louis, IL, to points in IN and OH, restricted to the transportation of traffic origi-

nating at the named origin facilities. (Hearing site: Chicago, IL.)

NOTE. Dual operations may be at issue in this proceeding.

MC 108119 (Sub-93F), filed August 17, 1978. Applicant: E. L. MURPHY TRUCKING CO., a corporation, P.O. Box 43010, St. Paul, MN 55164. Representative: Andrew R. Clark, 1000 First National Bank Bldg., Minneapolis, MN 55402. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting (1) *pre-cut log buildings,* knocked down, and (2) *materials and supplies* used in the contruction of pre-cut log buildings, from the facilities of American Log Homes, at or near McNary, AZ, to points in the United States (except AK and HI). (Hearing site: Phoenix or Tucson, AZ.)

MC 108341 (Sub-109F), filed July 31, 1978. Applicant: MOSS TRUCKING CO., INC., 3027 North Tryon Street, P.O. Box 8409, Charlotte, NC 28208. Representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, NY 10048. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting (1) *Pollution control equipment, steel tanks, concrete tanks, materials and supplies used in the construction of sewage treatment plants, and pumping stations,* from the facilities of Davco, Division of Davis Water and Waste Industries, Inc., at or near Thomasville, GA, to points in the United States in and east of MN, IA, MO, AR, and LA; and (2) *Materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, from points in the United States in and east of MN, IA, MO, AR, and LA, to the facilities of Davco, Division of Davis Water and Waste Industries, Inc., at or near Thomasville, GA. (Hearing site: Washington, DC.)

MC 110525 (Sub-1256F), filed August 7, 1978. Applicant: CHEMICAL LEAMAN TANK LINES, INC., a Delaware corporation, 520 East Lancaster Avenue, Downingtown, PA 19335. Representative: Thomas J. O'Brien (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *liquid chemicals,* in bulk, in tank vehicles, from Bay City and Midland, MI, to points in IL, IN, IA, MN, OH, WI, and PA (except Allegheny and Beaver Counties). (Hearing site: Detroit, MI.)

MC 110525 (Sub-1257F), filed August 10, 1978. Applicant: CHEMICAL LEAMAN TANK LINES, INC., a Delaware corporation, 520 East Lancaster Avenue, Downingtown, PA 19335. Representative: Thomas J. O'Brien (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting (1) *sulphur dioxide,* in bulk, in tank vehicles, from Cooperhill, TN, to points in OK and WI, and (2) *liquid washing compound,* in bulk, in tank vehicles, from Cooperhill, TN, to points in OK. (Hearing site: Atlanta, GA.)

MC 110878 (Sub-39F), filed August 23, 1978. Applicant: ARGO TRUCKING COMPANY, INC., Lower Heard Street, Elberton, GA 30635. Representative: Frank D. Hall, Suite 713, 3384 Peachtree Rd., NE, Atlanta, GA 30326. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *granite and marble,* between Elberton, GA, and points within 15 miles thereof, and Tate, GA, and points within 20 miles thereof, on the one hand, and, on the other, Savannah, GA, restricted to the transportation of traffic having a prior or subsequent movement by water. (Hearing site: Atlanta, GA.)

MC 111302 (Sub-134F), filed August 25, 1978. Applicant: HIGHWAY TRANSPORT, INC., P.O. Box 10470, Knoxville, TN 37919. Representative: David A. Petersen (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *liquid chemicals,* in bulk, in tank vehicles, from Knoxville, TN, to points in CO, RI, MA, VT, NH, and ME. (Hearing site: Knoxville, TN.)

MC 111375 (Sub-99F), filed August 11, 1978. Applicant: PIRKLE REFRIGERATED FREIGHT LINES, INC., P.O. Box 3358, Madison, WI 53704. Representative: Charles E. Dye (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *pizza, and materials, equipment, and supplies* used in the manufacture and disribution of pizza, from Santa Ana and Los Angeles, CA, to points in IL, IA, MI, MN, OH, and WI. (Hearing site: Los Angeles or San Francisco, CA.)

MC 111812 (Sub-581F), filed July 5, 1978. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57101. Representative: Ralph H. Jinks, (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *Drugs, toilet preparations, soaps, dental plate cleaning compounds, cough drops, magnesium hydroxide, alumina calcined, and health care products,* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, (1) From Lakewood, NJ, Lewes, DE, and Philaelphia, PA, to points in the United States (except AK, ME, NH, VT, NY, PA, VA, NJ, MD, MA, RI, CT, DE, HI, WV, and DC), (2) From Friendship, NC, to points in the United States (except AK, HI, VA, SC, and NC), (3) From Reno, NV, to points in PA and NJ, and (4) From San Leandro, CA, to Lakewood, NJ, and points in IN, GA, and PA, restricted in (1), (2), (3), and (4) to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Philadelphia, PA.)

MC 112822 (Sub-459F), filed July 24, 1978. Applicant: BRAY LINES INCORPORATED, P.O. Box 1191, 1401 N. Little Street, Cushing, OK 74023. Representative: Charles D. Midkiff (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *Fruit juices* and *fruit and flavored drinks,* in containers, from Anaheim, CA, to points in OR and WA. (Hearing site: Los Angeles, CA.)

MC 114241 (Sub-9F), filed July 27, 1978. Applicant: C. T. HERTZSCH, INC., 282 U.S. Highway 31, Speed, IN 47172. Representative: Louis B. Hartlage, 501 South Second Street, Louisville, KY 40202. To operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Cement,* from Speed, IN, to points in TN, under continuing contract(s) with Louisville Cement Company, of Louisville, KY. (Hearing site: Louisville, KY, or Indianapolis, IN.)

MC 114632 (Sub-173F), filed July 13, 1978. Applicant: APPLE LINES, INC., P.O. Box 287, Madison, SD 57042. Representative: Michael L. Carter (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Frozen foods,* and (2) *commodities* otherwise exempt from economic regulation under the provisions of section 203(b)(6) of the Interstate Commerce Act, when moving in the same vehicle with frozen foods, from Syracuse, NY, to points in CT, DE, ME, MD, MA, MI, NH, NJ, NY, OH, PA, RI, VT, VA, WV, and DC. (Hearing site: Chicago, IL, or Minneapolis, MN.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 115826 (Sub-321F), filed June 13, 1978, and previously noticed in the FEDERAL REGISTER issue of July 13, 1978. Applicant: W. J. DIGBY, INC., 1960 31st Street, Denver, CO 80217. Representative: Howard Gore (same address as applicant). To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Confectionery, dessert preparations, gumball machines and stands, and advertising and display materials,* in vehicles equipped with mechanical refrigeration, from the facilities of Leaf Confectionery, Inc., at or near Chicago, IL, to points in IA, KS, MO, and NE. (Hearing site: Denver, CO, or Chicago, IL.)

NOTE.—This republication corrects the commodity description.

MC 115826 (Sub-322F), filed June 13, 1978, and previously noticed in the FEDERAL REGISTER issue of July 13, 1978. Applicant: W. J. DIGBY, INC., 1960 31st Street, Denver, CO 80217. Representative: Howard Gore (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat by products, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 MCC 209 and 766 (except hides and commodities in bulk), (4) from the facilities of Armour Foods Co., in MN, IA, NE, and SD, to points in AZ, CA, CO, ID, MT, NM, OR, UT, WA, and WY, restricted in (1), (2), (3), and (4) above, to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Omaha, NE, or Des Moines, IA.)

NOTE.—The purpose of this republication of part (4) of the application is to indicate "MT" as a destination state in lieu of "MI" as previously published and to indicate the correct origin. The rest of the publication remains the same.

MC 117730 (Sub-24F), filed August 14, 1978. Applicant: KOUBENEC MOTOR SERVICE, INC., Route 47, Huntley, IL 60142. Representative: Albert A. Andrin, 180 North LaSalle Street, Chicago, IL 60601. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pickles, pickled tomatoes, sauerkraut, and pickle relish* (except commodities in bulk), from the facilities used by Claussen Pickle Co., a subsidiary of Oscar Mayer & Co., at Woodstock and Chicago, IL, to points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VA, VT, WV, and DC. (Hearing site: Chicago, IL.)

MC 118089 (Sub-27F), filed August 17, 1978. Applicant: ROBERT HEATH TRUCKING, INC., P.O. Box 2501, Lubbock, TX 79408. Representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by convenience stores and supermarkets, in vehicles equipped with mechanical refrigeration, from points in CA and AZ, to points in AZ, NM, and those in TX on and west of U.S. Hwy 281, restricted to the transportation of traffic destined to the indicated destination. (Hearing site: Lubbock, TX.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 118535 (Sub-127F), filed August 10, 1978. Applicant: TIONA TRUCK LINE, INC., 111 South Prospect, Butler, MO 64730. Representative: Wilburn L. Williamson, 280 National Foundation Life Center, 3535 Northwest 58th Street, Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lead oxide*, from Hammond, IN, to Kansas City, MO. (Hearing site: Kansas City, MO.)

MC 118959 (Sub-176F), filed August 22, 1978. Applicant: JERRY LIPPS, INC., a Florida corporation, 130 South Frederick Street, Cape Girardeau, MO 63706. Representative: Edward G. Bazelon, 39 South LaSalle Street, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt* (except in bulk), (1) from Weeks Island, LA, to points in AR, FL, and GA, (2) from Grand Saline, TX, to points in AL, AR, FL, GA, LA, and MS, and (3) from Rittman, OH, to points in AL, FL, GA, KY, IL, IN, MS, NC, SC, TN, VA, and WV. (Hearing site: Chicago, IL.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 119634 (Sub-27F), filed July 17, 1978. Applicant: DICK IRVIN, INC., 218 12th Avenue North, P.O. Box F, Shelby, MT 59474. Representative: Joe Gerbase, 100 Transwestern Building, 404 North 31st Street, Billings, MT 59101. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Baler twine* and *binder twine*, from Duluth, MN, and Superior, WI, to the ports of entry on the international boundary line between the United States and Canada located in MN, ND, MT, ID, and WA, restricted to the transportation of traffic destined to points in the Provinces of MB, SK, AB, and BC, Canada. Condition: Prior receipt from applicant of an affidavit setting forth its complementary Canadian authority or explaining why no such Canadian authority is necessary. (Hearing site: Great Falls or Billings, MT.)

NOTE.—The restriction and conditions contained in the grant of authority in this proceeding are phrased in accordance with the policy statement entitled Notice to Interested Parties of New Requirements Concerning Applications for Operating Authority to Handle Traffic to and from points in Canada published in the FEDERAL REGISTER on December 5, 1974, and supplemented on November 18, 1975. The Commission is presently considering whether the policy statement should be modified, and is in communication with appropriate officials of Canada regarding this issue. If the policy statement is changed, appropriate notice will appear in the FEDERAL REGISTER and the Commission will consider all restrictions or conditions which were imposed pursuant to the prior policy statement, regardless of when the condition or restriction was imposed, as being null and void and having no further force or effect.

MC 119789 (Sub-504F), filed August 7, 1978. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionery*, (1) from York, PA, to points in LA, KY, LA, NC, and OH, and (2) from Thibodaux, LA, to points in AL, KY, NC, OH, and PA. (Hearing site: New Orleans, LA.)

MC 119789 (Sub-513F), filed August 22, 1978. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic film*, in vehicles equipped with mechanical refrigeration, from Los Angeles and San Francisco, CA, and Seattle and Tacoma, WA, to points in the United States in and east of WI, IL, KY, TN, and MS, restricted to the transportation, in foreign commerce only, of traffic having an immediately prior movement by water. (Hearing site: Boston, MA.)

MC 119988 (Sub-156F), filed August 24, 1978. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Lufkin, TX 75901. Representative: Clayte Binion, 1108 Continental Life Building, Forth Worth, TX 76102. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Filters and pipe insulation*, from Dallas, TX, Kenner, LA, St. Petersburg, FL, Charlotte, NC, and Atlanta, GA, to points in the United States (except AK and HI); and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, from points in the United States (except AK and HI), to the origins named in (1) above. (Hearing site: Tampa, FL, or Washington, DC.)

MC 123255 (Sub-173F), filed August 11, 1978. Applicant: B & L MOTOR FREIGHT, INC., 1984 Coffman Road, Newark, OH 43055. Representative: C. F. Schnee, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods* (except frozen), from the facilities of Joan of Arc Co., Inc., at or near Turkey, NC, to points in IN, MI, and WI. (Hearing site: Columbus, OH.)

MC 124489 (Sub-10F) filed August 21, 1978. Applicant: NIELSEN BROS. CARTAGE CO., INC., 4619 West Homer Street, Chicago, IL 60639. Representative: Edward G Bazelon, 39 South LaSalle Street, Chicago, IL 60603. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in or used by manufacturers of snack foods (except commodities in bulk), (1) between points

in IA and OH, and (2) between points in IA and OH, on the one hand, and, on the other, points in IL, IN, MI, and WI, under continuing contract(s) in (1) and (2) above, with Jays Foods, Inc., of Chicago, IL.

NOTE.—Dual operations are involved in this proceeding.

MC 124839 (Sub-33F), filed August 11, 1978. Applicant: BUILDERS TRANSPORT, INC., P.O. Box 7057, Savannah, GA 31408. Representative: William P. Sullivan, 1320 Fenwick Lane, Suite 500 Silver Spring, MD 20910. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *general commodities* (except those of unusual value, classed A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between those points in the United States in and east of MN, IA, NE, KS, OK, and TX under continuing contract(s) with Georgia-Pacific Corp., of Augusta, GA. Condition: The prior or coincidental cancellation, at carrier's written request, of all existing contract carrier authority under MC 124839 to serve Georgia-Pacific Corp. (Hearing site: Washington, D.C.)

MC 124979 (Sub-8F), filed August 21, 1978. Applicant: CONRAD BERG, doing business as C. BERG CO., Route 1, Box 185A, Saginaw, MN 55759. Representative: VAL M. HIGGINS, 1000 First National Bank Building, Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *Scrap metal*, from Duluth, MN, to points in WI. (Hearing site: Minneapolis, MN.)

NOTE.—Dual operations may be at issue in this proceeding.

MC 126539 (Sub-40F) filed August 21, 1978. Applicant: KATUIN BROS., INC., P.O. Box 311, Fort Madison, IA 52627. Representative: Carl E. Munson, 469 Fischer Bldg., Dubuque, IA 52001. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *fertilizer and fertilizer materials*, in bulk, from the facilities of Land O'Lakes Agricultural Services Division, at or near Mason City, IA, to points in MN, NE, ND, SD, and WI. (Hearing site: Des Moines, IA.)

NOTE.—Dual operations are involved in this proceeding.

MC 127705 (Sub-61F), filed August 14, 1978. Applicant: KREVDA BROS. EXPRESS, INC., P.O. Box 68, Gas City, IN 46933. Representative: Donald W. Smith, P.O. Box 40659, Indianapolis, IN 46240. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *glass containers*, from the facilities of Thatcher Glass Manufacturing Co., a division of Dart Industries, at Streator, IL, to St. Louis, MO, and points in OH and KY. (Hearing site: Washington, DC.)

MC 127840 (Sub-72F), filed June 2, 1978, previously noticed in the FR issue of July 13, 1978. Applicant: MONTGOMERY TANK LINES, INC., 17550 Fritz Drive, Lansing, IL 60438. Representative: William H. Towle, 180 North LaSalle Street, Chicago, IL 60601. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *synthetic plastic liquid resins*, in bulk, in tank vehicles, from Fort Worth, TX, to points in AR, LA, TX, and OK. (Hearing site: Chicago, IL, or Dallas, TX.)

NOTE.—The purpose of this republication is to add TX to the destination territory.

MC 128095 (Sub-20F), filed August 10, 1978. Applicant: PARKER TRUCK LINE, INC., P.O. Box 1402, Tupelo, MS 38801. Representative: Fred W. Johnson, Jr., P.O. Box 22628, Jackson, MS 39205. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *new furniture*, from the facilities of C. J. Marketing Corp., at or near Idaville, IN, to points in AL, CO, FL, GA, IL, IA, KY, MI, MN, NE, NC, OH, PA, SC, SD, TN, and WI. (Hearing site: Jackson, MS, or Indianapolis, IN.)

MC 128527 (Sub-113F), filed July 17, 1978. Applicant: MAY TRUCKING CO., a corporation, P.O. Box 400, Payette, ID 83661. Representative: J. Michael Alexander, 136 Wynnewood Professional Bldg., Dallas, TX 75224. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *animal feed, feed ingredients, additives*, and *materials and supplies* used in the manufacture and distribution of animal feeds (except commodities in bulk), between the facilities of Kal Kan Foods, Inc., at or near Mattoon, IL, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Kal Kan Foods, at or near Mattoon, IL. (Hearing site: Boise, ID.)

MC 133545 (Sub-7F), filed August 10, 1978. Applicant: DAVID LEMONS, d.b.a. LEMONS HOUSE MOVING, 1205 Houston Road, Idaho Falls, ID 83401. Representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *prefabricated buildings*, in sections, (1) from the facilities of Boise Cascade Corp., at or near (a) Laurel, MT, and (b) West Jordan, UT, to points in CO, MT, NV, OR, SD, UT, WA, and WY, and (2) from the facilities of Boise Cascade Corp., at or near Pocatello, ID, to points in CO, NV, OR, SD, WA, and WY (except Fremont, Lincoln, Park, Sublette, Sweetwater, Teton, and Uinta Counties). (Hearing site: Boise, ID.)

MC 133689 (Sub-202F), filed May 19, 1978, previously published in the FEDERAL REGISTER issue of June 27, 1978. Applicant: OVERLAND EXPRESS, INC., 719 First Street SW., New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN. Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *foodstuffs*, from points in MN and WI, to Columbus, OH, restricted to the transportation of traffic originating at points in MN and WI, and destined to the named destination. (Hearing site: St. Paul, MN.)

NOTE.—The purpose of this republication is to show the correct origins in the restriction as MN and WI, and to delete the vague reference to "facilities" in the restriction. Fox-Smythe Transportation Company Extension—Oklahoma, 106 MCC 1, 52 (1967).

MC 133689 (Sub-215F), filed August 21, 1978. Applicant: OVERLAND EXPRESS, INC., 719 First Street SW., New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN. 55118. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *such commodities* as are dealt in by grocery and food business houses, and by discount and department stores, and *equipment, materials and supplies* used in the conduct of such businesses (except commodities in bulk), from those points in IL on and north of U.S. Hwy 24, to points in MN, ND, and SD. (Hearing site: St. Paul, MN.)

MC 133689 (Sub-216F), filed August 21, 1978. Applicant: OVERLAND EXPRESS, INC., 719 First Street SW., New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstufs*, and *materials and supplies* used in the manufacture and distribution of foodstuffs (except commodities in bulk), from points in IL, IN, MI, NY, and OH, to points in MN, restricted to the transportation of traffic originating at the named origins and destined to the facilities of Associated Milk Producers, Inc. in MN. (Hearing site: St. Paul, MN.)

MC 134477 (Sub-262F), filed July 24, 1978. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN. 55118. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except commodities in bulk), from the facilities of Termicold Corp., at or near Plover,

WI, to points in AL, AK, CO, CT, DE, GA, IA, IL, IN, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV, and DC, restricted to the transportation of traffic originating at the named origin and destined to the named destinations. (Hearing site: St. Paul, MN.)

MC 134599 (Sub-163F), filed August 21, 1978. Applicant: INTERSTATE CONTRACT CARRIER CORP., a Delaware corporation, P.O. Box 30303, Salt Lake City, UT 84125. Representative: Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusal value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Compton, CA, Herrin and Rock Island, IL, Eldora, IA, Springfield, MO, Alliance and McCook, NE, Dover, NJ, Kingstree, Walterboro, and Williston, SC, Dyersburg, TN, Olney, TX, Richmond, VA, and points in Haywood County, NC, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contract(s) with Dayco Corp., of Dayton, OH. (Hearing site: Lincoln, NE, or Salt Lake City, UT.)

NOTE.—Dual operations are at issue in this proceeding.

MC 135009 (Sub-3F), filed August 14, 1978. Applicant: PEAK TRANSFER CO., INC., 57 Hathaway Street, Wallington, NJ 07866. Representative: Ronald I. Shapss, 450 Seventh Avenue, New York, NY 10001. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper and printed matter*, between Salem and Effingham, IL, and Dresden and Nashville, TN, on the one hand, and, on the other, points in AL, AR, CA, CT, DE, FL, GA, IL, IN, KY, LA, ME, MD, MA, MI, MS, NE, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, WI, and DC, under continuing contracts with CBS Publications, a division of CBS, Inc., of New York, NY. (Hearing site: New York, NY.)

MC 135399 (Sub-7F), filed August 21, 1978. Applicant: HASKINS TRUCKING, INC., P.O. Drawer 7729, Longview, TX 75602. Representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, TX 75201. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Scrap metal and used batteries*, between points in TX, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Dallas, TX.)

MC 135444 (Sub-4F), filed June 16, 1978. Applicant: SOUTHERN OHIO TRUCK LINES, INC., 3585 Hamilton-Trenton Road, Hamilton, OH 45011. Representative: Earl N. Merwin, 85 East Gay Street, Columbus, OH 43215.To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper and paper products*, from the facilities of (a) Champion International Corp., at or near Cincinnati and Hamilton, OH, and (b) St. Regis Paper Co., at or near Troy, OH, to points in NY and PA; and (2) *such commodities as are used in the manufacture and distribution of paper and paper products* (except commodities in bulk), from the destination points named in (1) above to the origins named in (1) above. (Hearing site: Columbus, OH.)

MC 135861 (Sub-32F), filed July 27, 1978. Applicant: LISA MOTOR LINES, INC., P.O. Box 4550, Fort Worth, TX 76106. Representative: Billy R. Reid, P.O. Box 9093, Fort Worth, TX 76107. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat by-products*, and *articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from the facilities of Armour Food Co., at or near Hereford, TX, to points in CT, DE, ME MD, MA, NH, NJ, NY, PA, RI, VT, VA, WV, and DC, under continuing contract(s) with Armour Food Co., of Phoenix, AZ. (Hearing site: Dallas or Ft. Worth, TX.)

MC 136315 (Sub-33F), filed August 11, 1978. Applicant: OLEN BURRAGE TRUCKING, INC., Route 9, Box 22-A, Philadelphia, MS 39350. Representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cast iron pipe, fittings, valves, hydrants, and castings*, and (2) *materials and supplies* used in the installation of the commodities in (1) above, from the facilities of U.S. Pipe & Foundary Co., at or near (a) Bessemer and Birmingham, AL, and (b) Chattanooga, TN, to points in AR, IA, KS, LA, MO, MS, NE, OK, and TX. (Hearing site: Jackson, MS, or Birmingham, AL.)

NOTE.—Dual operations are at issue in this proceeding.

MC 136605 (Sub-68F), filed August 10, 1978. Applicant: DAVIS BROS. DIST., INC., P.O. Box 8085, Missoula, MT 59807. Representative: Allen P. Felton (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Grain storage, grain drying, and grain handling equipment*, and (2) *materials and equipment* used in the manufacture of the commodities in (1) above, from the facilities of Grain Systems, Inc., at or near Assumption, IL, to points in the United States in and west of MN, IA, MO, OK, and TX (except AK and HI). (Hearing site: Billings, MT, or Chicago, IL.)

MC 136818 (Sub-35F), filed August 24, 1978. Applicant: SWIFT TRANSPORTATION COMPANY, INC., 335 West Elwood Road, P.O. Box 3902, Phoenix, AZ 85030. Representative: Donald E. Fernaays, Suite 320, 4040 East McDowell Road, Phoenix, AZ 85008. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products* (except commodities in bulk), from Houston, TX, to points in AZ, CA, CO, MT, NM, OR, UT, and WA. (Hearing site: Houston, TX.)

NOTE.—Dual operations are at issue in this proceeding.

MC 138255 (Sub-6F), filed August 8, 1978. Applicant: DAYTON AIR FREIGHT, INC., Dayton International Airport, P.O. Box 78, Vandalia, OH 45377. Representative: Linda A. McCorkle, 1015 18th Street NW., Suite 408, Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Dayton International Airport, at Vandalia, OH, Greater Cincinnati Airport at Erlanger, KY, and Weir Cook International Airport at Indianapolis, IN, and (2) between the points named in (1) above, on the one hand, and, on the other, O'Hare International Airport at or near Chicago, IL, JFK International Airport, at New York, NY, Detroit Metropolitan Airport to Romulus, MI, and Willow Run Airport at or near Detroit, MI, restricted in both (1) and (2) above to the transportation of traffic having a prior or subsequent movement by air. (Hearing site: Washington, DC, or Columbus, OH.)

MC 138635 (Sub-59F), filed August 10, 1978. Applicant: CAROLINA WESTERN EXPRESS, INC., Box 3961, Gastonia, NC 28052. Representative: Eric Meierhoefer, Suite 423, 1511 K Street NW., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, from the facilities of M&M/Mars, at or near Cleveland, TN, to points in CT, MA, RI, ME, NH, VT,

NY, PA, MD, DE, NJ, NC, SC, VA, CA, AZ, WA, OR, ID, WY, UT, NV, MT, and DC, restricted to the transportation of traffic originating at the named facilities and destined to the indicated destinations. (Hearing site: Washington, DC.)

NOTE.—Dual operations are at issue in this proceeding.

MC 138824 (Sub-14F), filed July 19, 1978. Applicant: REDWAY CARRIERS, INC., 5910 49th Street, Kenosha, WI 53140. Representative: Paul J. Maton, 10 South LaSalle Street, Room 1620, Chicago, IL 60603. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Glassware and closures* for glassware, between the facilities of Metro Pak Containers, at or near Washington, PA, and the facilities of Ocean Spray Cranberries, Inc., in Kenosha County, WI, under contracts(s) with Ocean Spray Cranberries, Inc (Hearing site: Chicago, IL.)

MC 138875 (Sub-102F), filed August 11, 1978. Applicant: SHOEMAKER TRUCKING CO., a corporation, 11900 Franklin Road, Boise, ID 83705. Representative: F. L. Sigloh (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except in bulk), between points in Malheur County, OR, and points in ID, on the one hand, and, on the other, points in CA. (Hearing site: Boise, ID, or Washington, DC.)

MC 138882 (Sub-118F), filed July 25, 1978. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Box 707, Troy, AL 36081. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Brick*, from the facilities of (1) Delta-Macon Brick and Tile Co., at or near Macon, MS, and (2) Delta-Shuqulak Brick and Tile Co., Inc., at or near Shuqulak, MS, to Mobile, Birmingham, and Montgomery, AL, Atlanta, GA, and Pensacola, FL. (Hearing site: Birmingham or Montgomery, AL.)

MC 139089 (Sub-7F), filed August 23, 1978. Applicant: FREEPORT TRANSPORT, INC., a Nevada corporation, P.O. Box 1275, Freeport Center, Clearfield, UT 84016. Representative: Bruce W. Shand, 430 Judge Building, Salt Lake City, UT 84111. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel pipe and fittings*, and *aluminum pipe and fittings*, between points in the United States (except AK and HI), under continuing contract(s) with Keystone Tubular Service Corp., of Chicago, IL. (Hearing site: Chicago, IL, or Salt Lake City, UT.)

MC 139112 (Sub-16F), filed July 24, 1978. Applicant: CALEX EXPRESS, INC., 149 Warden Avenue, Trucksville, PA 18708. Representative: Joseph F. Hoary, 121 South Main Street, Taylor, PA 18517. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New lawn furniture and new garden furniture*, from Wilkes Barre, PA, to Calhoun, GA, Longhorn, TX, Riverside and Colton, CA, Alexandria, IN, and Leominster, MA. (Hearing site: Washington, DC.)

NOTE.—Dual operations are at issue in this proceeding.

MC 139457 (Sub-6F), filed July 24, 1978. Applicant: G. L. SKIDMORE, d.b.a. JELLY SKIDMORE TRUCKING CO., P.O. Box 38, Paris, TX 75460. Representative: Paul D. Angenend, P.O. Box 2207, Austin, TX 78768. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Canned and preserved foodstuffs*, and (2) *ingredients and supplies* used in the manufacture of the commodities named in (1) above, from the facilities of Campbell Soup Co., at or near Worthington, MN, to the facilities of Campbell Soup (Texas) Inc., at or near Paris, TX, under continuing contract(s) with Campbell Soup (Texas) Inc., of Camden, NJ. (Hearing site: Dallas, TX, or Washington, DC.)

MC 139482 (Sub-62F), filed July 17, 1978. Applicant: NEW ULM FREIGHT LINES, INC., County Road 29 West, New Ulm, MN 56073. Representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionery products*, (except commodities in bulk), (1) from the facilities of Nabisco Confections, Inc., at or near (a) Cambridge and Mansfield, MA, and (b) Ashton, RI, to points in IL, MI, MN, and OH, (2) from the facilities of New England Confectionery Co., at or near Cambridge, MA, to Pittsburgh, PA and points in IN, IL, MI, MN, OH, TN, and WI, (3) from the facilities of the Schrafft Candy Co., at or near (a) Boston and Woburn, MA, and (b) West Reading, PA, to points in IL, IN, KY, MI, MN, MO, OH, and WI, and (4) from the facilities of Deran Confectionery, at or near (a) Boston and Cambridge, MA, and (b) North Grosvenordale, CT, to Pittsburgh, PA, and points in IN, IL, IA, MI, MN, MO, OH, and WI. (Hearing site: Minneapolis or St. Paul, MN.)

MC 139495 (Sub-364F), filed July 13, 1978. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, LIberal, KS 67901. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals and cleaning and janitorial products and supplies* (except commodities bulk, in tank vehicles), from the facilities of Purex Corp., at Dallas and Houston, TX, to points in KS and OK. (Hearing site: Washington, DC.)

MC 139495 (Sub-375F), filed August 8, 1978. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dublin, 1320 Fenwick Lane, Silver Spring, MD 20910. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), in vehicles equipped with mechanical refrigeration, from Downers Grove, IL, to points in DE, GA, KS, MD, NJ, NY, PA, SC, and DC. (Hearing site: Washington, DC.)

MC 139495 (Sub-379F), filed August 10, 1978. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin 1320 Fenwick Lane, Silver Spring, MD 20910. To operate as a *common carrier*, by motor vehicle, over irregular routes, transportating: *Trays and foodstuffs*, in vehicles equipped with mechanical refrigeration, from Downingtown, Philadelphia, and Fogelsville, PA and Milford, DE, to points in AR, CA, IL, NE, TX, and UT. (Hearing site: Washington, DC.)

MC 140429 (Sub-2F), filed August 18, 1978. Applicant: WILLIAM F. HOOPS, INC., 440 North Keyser Avenue, Deshler, OH 43516. Representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: Unfinished automobile parts, between the facilities of Metal Forge Co., at Deshler, OH, and the facilities of Metal Forge Co., at Detroit, MI, under continuing contract(s) with Metal Forge Co., of Columbus, OH. (Hearing site: Columbus, OH.)

MC 141088 (Sub-5F) filed August 28, 1978. Applicant: KEYSTONE DELIVERY SERVICE., P.O. Box 335, North Miami, Fl 33161. Representative: John P. Bond, P.O. Box 340370, Coral Gables, FL 33134. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporation: *Such commodities* as are used or dealt in by a manufacturer of cosmetics and toilet preparations, between points in Charlotte, Collier, DeSoto, Hardee, Lee, Manatee, Pasco, Polk, and Sarasota Counties, FL, under continuing contract(s) with Avon Products, Inc., of Atlanta, GA. (Hearing site: Miami, FL.)

MC 141356 (Sub-8F), filed July 17, 1978. Applicant: LONE PINE TRUCK-

ING CO., a corporation, 11831 Vose Street, North Hollywood, CA 91605. Representative: R. Y. Schureman, 1545 Wilshire Boulevard, Los Angeles, CA 90017. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Perlite, in bulk*, from the facilities of American Perilite Co., at or near Fish Springs, CA, to points in UT. (Hearing site: Los Angeles, CA.)

MC 141675 (Sub-4F), filed August 9, 1978. Applicant: ECONOMY TRUCKING SERVICE, INC., 1079 West Side Avenue, Jersey City, NJ 07306. Representative: Arthur Liberstein, P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such commodities* as are dealt in or used by retail department stores, between New York, NY, and points in CT, MA, and NJ, on the one hand, and, on the other, points in OH, under continuing contract(s) with Carlisle-Allen Co., of Ashtabula, OH, and Strouss, of Youngstown, OH. Condition: Pursuant to the findings in MC 141675 (Sub-3) of which we take official notice, the permit to be issued here shall be limited in point of time to a period expiring 2 years from its date of issue, unless, prior to its expiration (but not less than 6 months prior to its expiration), applicant files a petition for permanent extension of the permit showing that it has been in full compliance with applicable regulations. (Hearing site: New York, N.Y.)

MC 141721 (Sub-1F), filed July 31, 1978. Applicant: DFC TRANSPORTATION CO., a Delaware corporation, 3600 North River Road, Franklin Park, IL 60131. Representative: Edward G. Bazelon, 39 South LaSalle Street, Chicago, IL 60603. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such commodities* as are dealt in or used by manufacturers and distributors of foodstuffs and animal feeds between Ashton, IL, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contracts with Dean Foods Co., of Franklin Park, IL, Green Bay Foods Co., of Green Bay, WI, Hoffman House Food Products, of Green Bay, WI, Dean Foods Products Co, of Memphis, TN, Dean Milk Co., Inc., of Louisville, KY, Liberty Diary, of Evart, MI, McCadam Cheese Co., Inc., of Heuvelton, NY, and Bowman Dairy Co., of Franklin Park, IL. (Hearing site: Chicago, IL.)

MC 141776 (Sub-30F), filed July 13, 1978. Applicant: FOODTRAIN, INC., Spring and South Center Streets, Ringtown, PA 17967. Representative: Pauline E. Myers, 407 Walker Building, 734 15th Street NW., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Oleomargarine, vetetable oils, and vegetable oil shortening*, from Columbus, OH, to points in CT, DE, MA, ME, MD, NH, NJ, and NY, points in PA on and east of Interstate Hwy 81, and points in RI, VT, and DC, restricted to the transportation of traffic originating at the named origin and destined to the named destinations. (Hearing site: Columbus, OH, or Washington, DC.)

MC 141776 (Sub-31F), filed July 18, 1978. Applicant: FOODTRAIN, INC., Spring and South Center Streets, Ringtown, PA 17967. Representative: Pauline E. Myers, 406 Walker Building, 734 15th Street NW., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Preserved foodstuffs*, in containers, in vehicles equipped with mechanical refrigeration, from points in Franklin and Adams Counties, PA, to points in AR, LA, MS, OK, TN, and TX, restricted to the transportation of traffic originating at the named origins and destined to the named destinations. (Hearing site: Philadelphia, PA, or Washington, DC.)

MC 141804 (Sub-119F), filed July 17, 1978. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sink tops, cabinets, and parts for sink tops and cabinets*, from points in San Bernardino County, CA, to Kansas City, KS, Dallas, TX, and those points in the United States in and east of MN, IA, MO, AR, and LA. (Hearing site: Los Angeles or San Francisco, CA.)

MC 142559 (Sub-35F), filed August 18, 1978. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Avenue, Cleveland, OH 44114. Representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Flavoring syrup* (except in bulk) and (2) *materials and supplies* used in the manufacture of flavoring syrup, (except commodities in bulk), between Cleveland, OH, on the one hand, and, on the other, points in the United States in and east of MN, IA, MO, KS, OK, and TX. (Hearing site: Columbus, OH, or Washington, DC.)

NOTE.—Dual operations are at issue in this proceeding.

MC 142559 (Sub-37F), filed August 23, 1978. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Avenue, Cleveland, OH 44114. Representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Automotive fuel additives and conditioners, lubricant additives and conditioners, and automotive glass cleaner*, (except commodities in bulk, in tank vehicles), (1) from Akron, OH, to points in DE, IL, IN, KY, MI, NJ, NY, PA, VA, WV, WI, and DC, (2) from Worcester, MA, to points in DE, KY, MD, MI, NJ, NY, OH, PA, VA, WV, and DC, and (3) from Paulsboro and Pennsauken, NJ, to points in MD, NY, OH, PA, VA, and WV. (Hearing site: Columbus, OH, or Washington, DC.)

NOTE.—Dual operations are at issue in this proceeding.

MC 142954 (Sub-5F), filed July 14, 1978. Applicant: GLENN BROS. MEAT CO., INC., P.O. Box 9343, Little Rock, AR 72209. Representative: Phillip Glenn (same address as applicant). To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Oak dimension lumber*, and (2) *fiberboard*, from Little Rock, AR, to Richmond, Jasper, and Celestine, IN, Dallas, TX, Colorado Springs, CO, Fergus Falls, MN, Adrian, MI, and Columbia MS, under continuing contract(s) with Wrape Forest Industries, of Little Rock, AR. (Hearing site: Little Rock, AR, or Washington, DC.)

MC 143059 (Sub-23F), filed August 22, 1978. Applicant: MERCER TRANSPORTATION CO., a Texas Corporation, P.O. Box 35610, Louisville, KY 40232. Representative: Clint Oldham, 1108 Continental Life Building, Fort Worth, TX 76102. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sodium bicarbonate, sodium carbonate, and cleaning, scouring and washing compounds*, (except commodities in bulk, in tank vehicles), from the facilities of Church & Dwight Co., Inc., in Sweetwater County, WY, to points in the United States (except AK and HI). (Hearing site: Philadelphia, PA, or Washington, DC.)

MC 143127 (Sub-8F), filed July 26, 1978. Applicant: K. J. TRANSPORTATION, INC., 1000 Jefferson Road, Rochester, NY 14623. Representative: S. Michael Richards, P.O. Box 225, Webster, NY 14580. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, from the facilities of (a) Curtice-Burns, Inc., at Alton, Egypt, Leicester, LeRoy, Phelps, Oakfield, Red Creek, Rushville, Shortsville, South Dayton, and Waterloo, NY, (b) Duffy-Mott Co., Inc., at Hamlin and Williamson, NY, and (c) Marion Foods Corp., Division of

Seneca Foods Corp., at Dundee, Marion, Newark, Oaks Corners, Williamson, and East Williamson, NY, to points in AL, GA, GL, NC, and SC, restricted in (1), (2), and (3) above to the transportation of traffic originating at the named origins and destined to the named destinations. (Hearing site: Buffalo or Syracuse, NY.)

NOTE: Dual operations are at issue in this proceeding.

MC 143344 (Sub-2F), filed July 17, 1978. Applicant: T & T CORPORATION, 6169 Verona & McKee Roads, P.O. Box 4326, Madison, WI 53711. Representative: Michael S. Jacobs, 222 South Hamilton Street, Madison. WI 53703. To operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Malt beverages and dispensing equipment for malt beverages* (1) from Peoria, IL, to the facilities of General Beer Distributors, at or near Madison, WI, under continuing contract(s) with General Beer Distributors, of Madison, WI, and (2) from Peoria, IL, to the facilities of General Beer Distributors, Inc.-Eau Claire, of Eau Claire, WI, under continuing contract(s) with General Beer Distributors, Inc.-Eau Claire of Eau Clair, WI. (Hearing site: Madison, WI, or Chicago, IL.)

MC 143499 (Sub-2F), filed July 24, 1978. Applicant: DOUBLE NICKEL TRANSPORT LTD., 32 North Lexow Ave., Nanuet, NY 10954. Representative: John L. Alfano, 550 Mamaroneck Ave., Harrison, NY 10528. To operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Agricultural pesticides* (except commodities in bulk, in tank vehicles), from the facilities of Ciba-Geigy Corp., (a) Birmingham, McIntosh, and Mobile, AL, (b) Baton Rouge, Port Allen, and St. Gabrial, LA, (c) Jackson, MS, and (d) Memphis, TN, to points in AR, DE, FL, GA, IL, IN, IA, KS, MD, MN, MO, NE, NJ, NY, NC, OH, OK, PA, TX, VA, and WI, and (2) *materials and supplies* (except commodities in bulk), from the destinations named in (1) above, to the facilities named in (1) above all of the operations in (1) and (2) above to be performed under continuing contract(s) with Ciba-Geigy Corp., of Ardsley, NY. (Hearing site: White Plains, NY.)

NOTE.—Dual operations are at issue in this proceeding.

MC 143676 (Sub-4F), filed July 17, 1978. Applicant: DAS, INC., P.O. Box 6134, Suffolk, VA 23433. Representative: Blair P. Wakefield, Suite 1001, First and Merchants Bank Building, Norfolk, VA 23510. To operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Wood residuals and sawdust,* in bulk, between points in NC and VA, under continuing contract(s) with Union Camp Corp., of Wayne, NJ. (Hearing site: Norfolk, VA, or Washington, DC.)

MC 144246 (Sub-5F), filed July 17, 1978. Applicant: LARSEN TRUCKING, INC., 7703 Sunset Street, Ralston, NE 68127. Representative: Kenneth P. Weiner, 608 Executive Building, Omaha, NE 68102. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat by-products, and articles distributed by meat-packing houses,* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 MCC 209 and 766 (except hides and commodities in bulk), from the facilities of Union Packing Co., at Omaha, NE, to Webster City, IA. (Hearing site: Omaha, NE.)

MC 144711 (Sub-2F), filed July 25, 1978. Applicant: FARISH R. THOMPSON, d.b.a. THOMPSON TRUCKING, R.R. No. 1, Afton, WY 83110. Represenative: Farish R. Thompson (same address as applicant). To operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Lumber,* from Afton, WY, to points in ID and UT, under continuing contract(s) with Star Studs Co., of Afton, WY.

NOTE.—Dual operations are at issue in this proceeding. (Hearing site: Salt Lake City, UT, or Casper, WY.)

MC 144739F, filed August 21, 1978. Applicant: BOB'S TRUCK SERVICE, INC., Box 528, Middletown, OH 45042. Representative: Paul F. Beery, 275 East State Street, Columbus, OH 43215. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Iron and steel articles* and *aluminum articles,* between points in Butler County, OH, on the one hand, and, on the other, points in AL, GA, MS, NC, SC, and WV. (Hearing site: Columbus, OH.)

MC 144987 (Sub-1F), filed July 14, 1978. Applicant: BILL BREWER'S TRUCKING CO., LTD., 4724 Royal Oak Avenue, South Burnaby, B. C., Canada V5F3N5. Representative: George R. LaBissoniere, 110 Norton Building, Seattle, WA 98104. To operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Lumber products, wood products, and plastic mouldings,* from ports of entry on the international boundary line between the United States and Canada at or near Blaine, Lynden, and Oroville, WA, to points in OR and WA, restricted (a) to the transportation of traffic having a prior movement in foreign commerce originating at points in the Province of British Columbia, Canada, and (b) to a transportation service to be performed under continuing contract(s) with Sauder Manufacturing, Ltd., Elswood Distributors, Ltd., Wonnock Industries, Ltd., General Hardwood Co., and Hardwoods, Inc., all of Vancouver, B. C., Canada. (Hearing site: Seattle, WA.)

NOTE.—The restriction contained in the grant of authority in this proceeding is phrased in accordance with the policy statement entitled "Notice to Interested Parties of New Requirements Concerning Application for Operating Authority To Handle Traffic to and From Points in Canada," published in the FEDERAL REGISTER on December 5, 1974, and supplemented on November 18, 1975. The Commission is presently considering whether the policy statement should be modified, and is in communication with appropriate officials of the Provinces of Alberta, Saskatchewan, and Manitoba regarding this issue. If the policy statement is changed, appropriate notice will appear in the FEDERAL REGISTER and the Commission will consider all restrictions or conditions which were imposed pursuant to the prior policy statement, regardless of when the condition or restriction was imposed, as being null and void and having no force or effect.

MC 145051F, filed July 13, 1978. Applicant: PYRAMID TRANSPORTATION CO., a corporation, 3103 East 79th Street, Chicago, IL 60649. Representative: William H. Towle, 180 North LaSalle Street, Chicago, IL 60601. To operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Such commodities* as are used or dealt in by manufacturers and distributors of inks, varnishes, and printed matter, between points in the United States (except AK and HI), under continuing contract(s) and Handschy Industries, Inc., of Chicago, IL. (Hearing site: Chicago, IL.)

MC 145084F, filed July 17, 1978. Applicant: THOMASSON TRANSPORTATION, INC., Box 264, Noxapater, MS 39346. Representative: Ronald L. Stichweh, 727 Frank Nelson Building, Birmingham, AL 35203. To operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Forest products and lumber mill products,* (1) from points in AL, AR, IL, LA, and MS, to points in AL, AR, CT, GA, IL, IN IA, KS, KY, LA, ME, MA, MI, MN, MS, MO, NE, NH, NY, ND, OH, PA, RI, SD, TN, VT, and WI, and (2) from Detroit, MI, to points in IL, IN, IA, OH, MI, MS, and WI, all of the service in (1) and (2) above to be performed under continuing contract(s) with Thomasson Lumber Co., of Philadelphia, MS. (Hearing site: Birmingham, AL, or Washington, DC.)

MC 145219F, filed August 7, 1978. Applicant: BUILDERS TRANSPORT, INC., P.O. Box 7057, Savannah, GA 31408. Representative: William P. Sullivan, 1320 Fenwick Lane, Silver Spring, MD 20910. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting:

Iron and steel articles, from the facilities of Georgetown Texas Corp., at or near Beaumont, TX, to points in AL, LA, and MS. (Hearing site: Washington, DC, or Houston, TX.)

NOTE.—Dual operations are at issue in this proceeding.

MC 145235F), filed August 14, 1978. Applicant: DUTCH MAID PRODUCE, INC., Route 2, Willard, OH 44890. Representative: David A. Turano, Suite 1800, 100 East Broad, Columbus, OH 43215. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paint and paint products* (except commodities in bulk), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodites in bulk), between the facilities of Glidden Coatings & Resins Division of S.C.M. Corp., at or near Huron, OH, on the one hand, and, on the the other, points in GA, IL, IN, IA, KY, MD, MI, MN, MO, NE, NY, PA, TX, VA, and WI, under continuing contract(s) with Glidden Coatings & Resins Division of S.C.M. Corp., of Huron, OH. (Hearing site: Columbus, OH.)

PASSENGER AUTHORITY

MC 145077F, filed July 24, 1978. Applicant: GODERICH COACH LINES Ltd., 257 Cambridge, Goderich, ON, Canada N7A 2Y7. Representative: S. Harrison Kahn, Suite 733, Investment Building, Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicle with passengers, in charter and special operations, in round-trip sightseeing and pleasure tours, beginning and ending at the ports of entry on the international boundary line between the United States and Canada, located in ME, VT, NY, MI, WI, MN, ND, MT, ID, WA, and AK and extending to points in the United States (including AK, but excluding HI), restricted to the transportation of traffic moving in foreign or to points in Canada.

Condition: Prior receipt from applicant of an affidavit setting forth its complementary Canadian Authority or explaining why no such Canadian authority is necessary. (Hearing site: Detroit, MI.)

NOTE.—The restriction and conditions contained in the grant of authority in this proceeding are phrased in accordance with the policy statement entitled Notice to Interested Parties of New Requirements Concerning Applications for Operating Authority to Handle Traffic to and from points in Canada published in the FEDERAL REGISTER on December 5, 1974, and supplemented on November 18, 1975. The Commission is presently considering whether the policy statement should be modified, and is in communication with appropriate officials of the Provinces of AB, SK, and MB, regarding this issue. If the policy statement is changed, appropriate notice will appear in the FEDERAL REGISTER and the Commission will consider all restrictions or conditions which were imposed pursuant to the prior policy statements, regardless of when the condition or restriction was imposed, as being null and void and having no force or effect.

[FR Doc. 78-26857 Filed 9-25-78; 8:45 am]

[7035-01]

[Notice No. 170]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

SEPTEMBER 26, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day afer the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

MC 30837 (Sub-486TA), filed July 17, 1978. Applicant: KENOSHA AUTO TRANSPORT CORP., 4314 39th Avenue, Kenosha, WI 53142. Representative: Fred C. Milloy, 4314 39th Avenue, Kenosha, WI 53142. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Marine fenders*, between points in AL, CA, CT, DE, FL, GA, IL, LA, ME, MD, MA, MI, MN, MS, MT, NH, NJ, NY, NC, ND, OH, OR, RI, SC, TX, VT, VA, WA, WI, and ID, for 180 days. Supporting shipper(s): Seaward International, Inc., 6269 Leesburg Pike, Falls Church, Va. 22044. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI. 53202.

MC 30844 (Sub-616TA), filed July 17, 1978. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 2125 Commercial Street, Waterloo, IA 50702. Representative: John P. Rhodes (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and skins and commodities in bulk), from the facilities utilized by John Morrell & Co., at or near Ft. Smith, AR, to Chicago, IL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers(s): John Morrell & Co., 208 South LaSalle Street, Chicago, IL 60604. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

MC 40978 (Sub-40TA), filed July 18, 1978. Applicant: CHAIR CITY MOTOR EXPRESS CO., 3321 Highway 141 South, P.O. Box 686, Sheboygan, WI 53081. Representative: Wm. C. Dineen, 710 North Plankinton Avenue, Milwaukee, WI 53203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are used in the manufacture and distribution of furniture (except in bulk), from Aurora and Montgomery, IL, to the facilities of All-Steel Inc., at West Hazelton, PA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): All-Steel, Inc., P.O. Box 871, Aurora, IL 60507. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commerce, Bureau of Operations, U.S. Federal Buildig and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 83539 (Sub-504TA), filed July 18, 1978. Applicant: C & H TRANSPORTATION CO., INC., 9757 Military

Parkway, P.O. Box 270535, Dallas, TX 75227. Representative: Thomas E. Jones (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ferroboard liners and hot top products*, from points in Travis County, TX, to points in the United States (except AK, HI, and TX), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Oglebay Norton Co., The Hanna Building, Cleveland, OH 44115. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, Tx 75242.

MC 111231 (Sub-241TA), filed July 17, 1978. Applicant: JONES TRUCK LINES, INC., 610 East Emma Avenue, Springdale, AR 72764. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, DC 20014. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities which require the use of special equipment), between Joplin, MO, and Denver, CO, serving the commercial zones of Joplin and Denver with interlining and tacking at both termini: (1) From Joplin over MO Hwy 43 to junction MO Hwy 171, then over MO Hwy 171 to junction MO Hwy 96, then over MO Hwy 96 to the MO KS State line, then over KS Hwy 96 to junction U.S. HIghway 77, then over U.S. Hwy 77 to junction KS Hwy 196, then over KS Hwy 196 to junction Interstate Hwy 35W, then over Interstate Hwy 35W to Salina, KS, then over Interstate Hwy 70 to Denver (traversing U.S. Hwy 24 where Interstate Hwy 70 is not completed), and return over the same routes, serving no intermediate points; and (2) From Joplin to MO-KS State line as in (1) above, then over KS Hwy 57 to junction U.S. Hwy 160, then over U.S. Hwy 160 to junction KS Hwy 96, then over U.S. Hwy 96 to junction Interstate Hwy 35W, then to Denver as in (1) above, and return over the same routes, serving no intermediate points, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately (40) statements of support attached to this application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

NOTE.—Applicant can already perform the service sought by tacking through Kansas City, MO. The mileage savings over the direct routes sought is approximately six (6) percent. Tack and interlining is requested at the termini.

MC 112617 (Sub-400TA), filed July 17, 1978. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, 1292 Fern Valley Road, Louisville, KY 40219. Representative: Charles R. Dunford (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid latex* (in bulk, in tank trucks), from Ringwood, IL, to Nicholasville, KY, for 180 days. Supporting shipper(s): Mr. J. L. Callaghan, Traffic Manager, Morton Chemical Co., Inc., 110 North Wacker Drive, Chicago, IL 60606. Send protests to: Linda H. Sypher, District Supervisor, Interstate Commerce Commission, 426 Post Office Building, Louisville, KY 40202.

MC 112801 (Sub-204TA), filed July 18, 1978. Applicant: TRANSPORT SERVICE CO., 2 Salt Creek Lane, Hinsdale, IL 60521. Representative: Gene Smith (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foundry sand additive, dry*, (in bulk, in tank vehicles), from the facilities of the Hill and Griffith Co., at Cicero, IL, to points in IN, IA, MI, and WI, for 180 days. Supporting shipper(s): The Hill & Griffith Co., Harlan Dye, vice president, 4606 West 16th Street, Cicero, IL 60650. Send protests to: Lois M. Stahl, Transportation Assistant, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 114552 (Sub-170TA), filed July 17, 1978. Applicant: SENN TRUCKING CO., P.O. Drawer 220, Newberry, SC 29108. Representative: Frank A. Graham, Jr., 707 Security Federal Building, Columbia, SC 29201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Boards, building, wall or insulating, and materials and supplies* used in the installation thereof, (except commodities in bulk), from the plantsites of Armstrong Cork Co. at Macon, GA, to points in DE, KY, MD, NJ, NY, NC, PA, SC, VA, and WV, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Armstrong Cork Co., Liberty and Charlotte Streets, Lancaster, SC 17604. Send protests to: E. E. Strotheid, District Supervisor, Interstate Commerce Commission, Room 302, 1400 Building, 1400 Pickens Street, Columbia, SC 29201.

MC 114896 (Sub-68TA), filed July 17, 1978. Applicant: PUROLATOR SECURITY, INC., 3333 New Hyde Park Road, New Hyde Park, NY 11040. Representative: Elizabeth L. Henoch, Purolator Security, Inc., 3333 New Hyde Park Road, New Hyde Park, NY 11040. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coin*, from Denver, CO, to Phoenix, AZ, and its commercial zone; Las Vegas, NV, and its commercial zone; Reno, NV, and its commercial zone; and Stateline, NV, and its commercial zone, for 180 days. Supporting shipper(s): General Services Administration, Chief, Contracts and Negotiations Branch, Washington, DC 20406. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10007.

MC 115213 (Sub-1TA), filed July 18, 1978. Applicant: ELLIOTT & FIKES TRUCK LINE, INC., 414 National Building, Pine Bluff, AR 71611. Representative: Horace Fikes, Jr., 414 National Building, Pine Bluff, AR 71601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Barrel staves*, from Dallas and Searcy Counties, AR, to Shelby County, TN, limited to shipments originating at facilities of L. W. Clark Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): L. W. Clark Co., P.O. Box 728, Fordyce, AR 71742. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 115654 (Sub-98TA), filed July 17, 1978. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, TN 37202. Representative: Henry E. Seaton, 915 Pennsylvania Building, 425 13th Street NW., Washington, DC 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Peanut products* (except in bulk, in vehicles equipped with mechanical refrigeration), from the facilities of the Kroger Co., d.b.a. Tara Foods at Albany, GA, to points in TN, KY, OH, IN, IL, AR, and MO, for 180 days. Supporting shipper(s): The Kroger Co., Cincinnati, OH. Send protests to: Joe J. Tate, District Supervisor, Room A422, Federal Building, 801 Broadway, Nashville, TN 37203

MC 115904 (Sub-114TA), filed July 17, 1978. Applicant: GROVER TRUCKING CO., 1710 West Broadway, Idaho Falls, ID 83401. Representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum, gypsum products and materials and supplies*

used in the installation thereof, from the plantsite of U.S. Gypsum Co., at Heath, MT, to CO, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): U.S. Gypsum Co., 525 South Virgil Avenue, Los Angeles, CA 90020. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, Suite 110, 1471 Shoreline Drive, Boise, ID 83706.

MC 116947 (Sub-57TA), filed July 18, 1978. Applicant: SCOTT TRANSFER CO., INC., 920 Ashby Street SW., Atlanta, GA 30310. Representative: William Addams, Suite 212, 5299 Roswell Road NE., Atlanta, GA 30342. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Fibreboard cans, with metal ends, set up,* from Henderson, TN, to Sodus, MI, under a continuing contract, or contracts, with Sonoco Products Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Sonoco Products Co., P.O. Box 160, Hartsville, SC 29550. Send protests to: Sara K. Davis, Transportation Assistant, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309

MC 119789 (Sub-494TA), filed July 18, 1978. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, Transporting: *Malt beverages,* from Galveston, TX, to LA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Falstaff Brewing Corp., 3301 Church Street, Galveston, Tex. 77550. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 119789 (Sub-495TA), filed July 18, 1978. Applicant: CARAVAN REFRIGERATED CARGO, INC., PO Box 226188, Dallas, TX 75266. Representative: Ralph W. Pulley, Jr., 4555 First National Bank Building, Dallas, TX 75202. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), from Woodburn, OR, and WA, to points in FL, GA, IA, MD, MA, NY, OH, PA, TN, and TX, for 180 days. Supporting shipper(s): General Foods Corp., 250 North Street, White Plains, N.Y. 10625. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 128791 (Sub-12TA), filed July 18, 1978. Applicant: JOULE YACHT TRANSPORT, INC., 12290 Automobile Boulevard, Clearwater, FL 33520. Representative: M. Craig Massey, 202 East Walnut Street, P.O. Drawer J Lakeland, FL 33802. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Boats, boat parts, and supplies and equipment* moving in connection therewith, from Hamlet, NC, and/or Grand River, OH, to all points in the United States (except AK and HI), for 180 days. There is no environmental impact involved in this application. Supporting shipper(s): Tartan Marine Co., 320 River Street, Grand River, OH 44045. Send protests to: Donna M. Jones, Transportation Assistant, Interstate Commerce Commission, Monterey Building, Suite 101, 8410 Northwest 53d Terrace, Miami, FL 33166.

MC 133168 (Sub-6TA), filed July 17, 1978. Applicant: DELTA EXPRESS, INC., P.O. Box 776, Old River Road, Natchitoches, LA 71457. Representative: D. E. Lester (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Furfural residue, wheat flour, grated pecan shells and adhesive extenders, and additionally products* essential to the manufacture of these commodities, to, from or between points in TX, LA, MS, MO, IL, AL, GA, SC, TN, AR, and OK, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): (1) Bates Market Service, 2850 Huyt Drive, Shreveport, LA 71118. (2) Dehyco Co., 1000 Kansas Street, Memphis, TN. (3) Crown Zellerbach, P.O. Box 1060, Bogalusa, LA 70427. (4) O'conee Roller Mills, Inc., P.O. Box 1193, Seneca, SC 29678. Send protests to: Interstate Commerce Commission, Bureau of Operations, Room 9A27 Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

MC 134477 (Sub-258TA), filed July 18, 1978. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Wearing apparel and materials and supplies* used in the manufacture of wearing apparel (except in bulk), from Perry, NY, to Burlington, IA, and Grants Pass, OR, for 180 days. Supporting shipper(s): Champion Products, Inc., 3141 Monroe Avenue, Rochester, NY 14618. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building, 110 South Fourth Street, Minneapolis, MN 55401.

MC 136888 (Sub-13TA), filed July 17, 1978. Applicant: NORMAN & SON, INC., 2520 North 69th Street, Houston, TX 77020. Representative: Phillip Robinson, P.O. Box 2207, Austin, TX 78768. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Brick,* having a prior movement in foreign commerce from the ports of entry located on the international boundary between the United States and the Republic of Mexico at Brownsville and Hidalgo, TX, to Houston, TX, restricted to traffic moving to residential jobsites or construction contractors temporary storage points, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): (1) Amigo Brick, Jersey Village, TX. (2) Los Fresnos Development Corp., Los Fresnos, TX. 78566. Send protests to: John F. Mensing, District Supervisor, Interstate Commerce Commission, 8610 Federal Building, 515 Rusk Avenue, Houston, TX 77002.

MC 138875 (Sub-99TA), filed July 17, 1978. Applicant: SHOEMAKER TRUCKING CO., 11900 Franklin Road, Boise, ID 83705. Representative: F. L. Sigloh, Shoemaker Trucking Co., 11900 Franklin Road, Boise, ID 83705. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Frozen cookie dough,* from Lake City, PA, to the facilities utilized by Ore-Ida Foods, Inc., located at Boise and Burley, ID, and Ontario, OR, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Donald C. Fowle, Senior Manager Traffic, Ore-Ida Foods, Inc., P.O. Box 10, Boise, ID 83707. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, Suite 110, 1471 Shoreline Drive, Boise, ID 83706.

MC 141356 (Sub-9TA), filed July 17, 1978. Applicant: LONE PINE TRUCKING CO., 11831 Vose Street, North Hollywood, CA 91605. Representative: R. Y. Schureman, 1545 Wilshire Boulevard, Los Angeles, CA 90017. Authority sought to operate as a *common carrier,* by motor vehicle, over regular routes, transporting: *Perilite* (in bulk), from the facilities of American Perilite Co., at or near Fish Springs, CA, to Salt Lake City, UT, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): American Perilite Co., 11831 Vose Street, North Hollywood, CA 91605.

Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 143787 (Sub-3TA), filed July 18, 1978. Applicant: ADMIRAL TRANSPORT CORP., 821 Pulliam Avenue, Worland, WY 82401. Representative: Truman A. Stockton, Jr., The 1650 Grant Street Building, Denver, CO 80203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Non-alcoholic beverages*, from Worland, WY, to Bismarck, ND, under a continuing contract, or contracts, with Admiral Beverage Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Admiral Beverage Corp., 821 Pulliam Avenue, Worland, WY 82401. Send protests to: Paul A. Naughton, District Supervisor, Interstate Commerce Commission, Room 105 Federal Building and Court House, 111 South Wolcott, Casper, WY 82601.

MC 144921 (Sub-1TA), filed July 17, 1978. Applicant: JERRY'S MOBILE HOME TRANSPORTING, INC., 5794 High Banks Road, Springfield, OR 97477. Representative: Lawrence V. Smart, Jr., 419 NW., 23d Avenue, Portland, OR 97210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mobile homes and sectionalized buildings*, from Caldwell, ID, to Eugene, OR, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Hyland Mobile Homes, Inc., 1700 Highway 99 North Eugene, OR 97401. Send protests to: A. E. Odoms, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, 555 SW., Yamhill Street, Portland, OR 97204.

MC 145072TA, filed July 17, 1978. Applicant: M. S. CARRIERS, INC., 7372 Eastern Avenue, Germantown, TN 38138. Representative: Mr. A. Doyle Cloud, Jr., 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Heating and refrigeration equipment and incidental parts, materials, and supplies* utilized in the distribution thereof, from Grenada, MS, to points in NY, NJ, PA, MD, DC, CT, VA, WV, GA, IL, TN, TX, OH, MI, IA, and WI; and *steel and aluminum, and parts, materials, and supplies* utilized in the manufacture of heating and refrigeration equipment on return to Grenada, MS; and (2) *heating and refrigeration equipment and parts, materials and supplies* utilized in the manufacture thereof, between Spirit Lake, IA; Louisville, KY; and Grenada, MS; (3) *Tires*, from Warren, OH, to points in AR, TN, AL and MS, for 180 days. Supporting shipper(s): McQual-Perfex, Inc., 13600 Industrial Park Boulevard, Minneapolis, MN 55440. (2) Denman Rubber Manufacturing Co., P.O. Box 951, Warren, OH 44482. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Building, Suite 2006, 100 North Main Street, Memphis, TN 38103.

MC 145217TA, filed July 17, 1978. Applicant: RICHARD MCNAY, INC., Rural Route No. 8, Quincy, IL 62301. Representative: Robert T. Lawley, 300 Reisch Building, Springfield, IL 62701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Limestone, limestone products, mineral mixtures for animal and poultry feeding, trace mineral ingredients*, from the facilities of Calcium Carbonate Co., at Quincy, IL, to points in IN, on and west of U.S. Hwy 31, points in IA on and south of U.S. Hwy 20, and on and east of U.S. Hwy 69, to all points in MO, and to points in WI, on and south of U.S. Hwy 10 (restricted to traffic originating at the facilities of Calcium Carbonate Co. at Quincy, IL), for 180 days. Supporting shipper(s): Russell E. Kanauss, Traffic Manager, Calcium Carbonate Co., P.O. BOX 4005, Quincy, IL 62301. Send protests to: Charles D. Little, District Supervisor, Interstate Commerce Commission, 414 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

By the Commission.

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

[FR Doc. 78-27036 Filed 9-25-78; 8:45 am]

[Notice No. 171]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

SEPTEMBER 26, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, DC, and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

MC 35807 (Sub-83TA), filed July 18, 1978. Applicant: WELLS FARGO ARMORED SERVICE CORP., P.O. Box 4313, 7210 Baker Street NW., Atlanta, GA 30302. Representative: Steven J. Thatcher, P.O. Box 4313, Atlanta, GA 30202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Platinum-rhodium screens and platinum scraps* (a) between Carteret, NJ, on the one hand, and, on the other, Newark Airport, NJ, and (b) between New Orleans, LA, on the one hand, and, on the other, Donaldsonville, LA. Restricted to the transportation of shipments having an immediately prior or subsequent movement by air, for 180 days, under a continuing contract or contracts with Engelhard Industries, 700 Blair Road, Carteret, NJ 07008. Send protests to: Sara K. Davis, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

MC 51146 (Sub-613TA), filed July 11, 1978. Applicant: SCHEIDER TRANSPORT, INC., 2661 South Broadway, Green Bay, WI 54306. Representative: John R. Patterson, 2480 East Commercial Boulevard, Fort Lauderdale, FL 33308. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by drugstores from the Eagandale General Merchandise Center at on near St. Paul, MN, to Shawano, Two Rivers, and Manitowoc, WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Wolf-Snyder Pharmacy, Riverview Shopping Center, Two Rivers, WI 54241 (Leo M. Pecore); North End Snyder, 2 North Eighth Street, Manitowoc, WI 54220 (Robert Schmidt); and Gallagher Drug, Inc., 822 East

Green Bay Street, Shawano, WI (John Gallagher). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 82492 (Sub-201TA), filed July 18, 1978. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., P.O. Box 2853, 2109 Olmstead Road, Kalamazoo, MI 49003. Representative: William C. Harris (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from Richmond and Kansas City, MO, and points in their commercial zones, to points in IN, KY, MI, OH, those points in NY in and west of Allegany, Livingston, and Monroe Counties and those points in PA on and west of U.S. Hwy 219, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately six statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the filed office named below. Send protests to: C. R. Flemming, District Supervisor, Interstate Commerce Commission, Room 225, Federal Building, Lansing, MI 48933.

MC 107515 (Sub-1163TA), filed July 18, 1978. Applicant: REFRIGERATED TRANSPORT CO., INC., 3701 Jonsborn Road, P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, Serby & Mitchell, P.C., 3390 Peachtree Road, Fifth Floor, Atlanta, GA 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in or used by retail, wholesale, or chain grocery, drug and food business houses (except frozen and in bulk) from the facilities of Gulf Atlantic Distribution Services at Forest Park, GA, to points in FL on or south of FL Hwy 40, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Gulf Atlantic Distribution Services, P.O. Box 2588, Houston, TX 77001. Send protests to: Sara K. Davis, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

MC 119118 (Sub-59TA), filed July 14, 1978. Applicant: McCURDY TRUCKING, INC., P.O. Box 388, Rural Delivery No. 4, Latrobe, PA 15650. Representative: Robert James, P.O. Box 388, Latrobe, PA 15650. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages and related advertising materials*, from Eden, NC, to points in the States of DC, MD, NJ, PA, VA, and WV; (2) *materials, supplies, and equipment* used in the manufacture, sale, and distribution of malt beverages, and returned empty malt beverage containers (except commodities in bulk), from points in the States of DC, MD, NJ, PA, VA, and WV, to Eden, NC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Miller Brewing Co., Asst. Corp. Traffic Manager-Operations, 3939 West Highland Boulevard, Milwaukee, WI 53208. Send protests to: John J. England, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

MC 123048 (Sub-409TA), filed July 18, 1978. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021 21st Street, Racine, WI 53406. Representative: Carl S. Pope (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles* from the facilities of United States Steel Corp. located at or near Gary, IN, and Joliet and South Chicago, IL, to points in the States of IA and NE, restricted to shipments originating at the above-named facilities, for 180 days. Supporting shipper(s): United States Steel Corp., 1000 East 80th Place, Merrillville, IN 46410. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 124554 (Sub-27TA), filed July 18, 1978. Applicant: LANG CARTAGE CORP., P.O. Box 513, Milwaukee, WI 53201. Representative: Richard C. Alexander, 710 North Plankinton Avenue, Milwaukee, WI 53203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by retail mail order houses, from the facilities of Stanley Home Products, Inc., at Dubuque, IA, to dealers of the shipper at points in Fairbault, Martin, Jackson, Cottonwood, Watonwan, Blue Earth, Redwood, Brown, Nicollet, LeSueur, Rice, Renville, Sibley, Scott, Carver, McLeod, Kandiyohi, Meeker, Wright, Pope, and Stearns Counties, MN, for 180 days, under a continuing contract or contracts with Stanley Home Products, Inc. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Stanley Home Products, Inc., 3110 Washington Street, Dubuque, IA 52001. Send protests to: Gail Dougherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 133405 (Sub-6TA), filed August 3, 1978. Applicant: BOWIE HALL TRUCKING, INC., P.O. Box 353, Waldorf, MD 20601. Representative: Daniel B. Johnson, 4304 East-West Hwy, Washington, DC 20014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Eden, NC, to Gaithersburg and Upper Marlboro, MD, for 180 days. Applicant has filed an underlying ETA application seeking 90 days of operating authority [R-6]. Supporting shippers: Buck Distributing Co., Inc., P.O. Box 41, Upper Marlboro, MD; Montgomery County (MD) Department of Liquor Control, 16650 Crabbs Branch-way, Rockville, MD 20853. Send protests to: T. M. Esposito, Transportation Assistant, Room 3238, 600 Arch Street, Philadelphia, PA 19106.

MC 134644 (Sub-3TA), filed July 14, 1978. Applicant: CLARA L. MARTIN, d.b.a. MARTIN, TRUCKING, Route 1, Box 219B, Sullivan, WI 53178. Representative: David V. Purceli, 111 East Wisconsin Avenue, Milwaukee, WI 53202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by warehousers of obsolete and slow moving agricultural, construction, industrial, internal combustion engine, medical, mining, self-propelled vehicular, and vending equipment, parts and subassemblies (except commodities in bulk and those requiring special equipment), (1) from Columbus, IN and Milwaukee and Waukesha, WI to Rochelle, IL; (2) from Battle Creek, Benton Harbor, Buchanan, Jackson, and Kalamazoo, MI, Aurora and Chicago, IL and LaPorte, IN to Beaver Dam, WI, for 180 days, under a continuing contract or contracts with Sajac Co., Inc. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Sajac Co., Inc., 1100 Green Valley Road, Beaver Dam, WI 53916. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53201.

MC 136220 (Sub-59TA), filed July 18, 1978. Applicant: SULLIVAN TRUCKING CO., INC., P.O. Box 2164, Ponca

City, OK 74601. Representative: G. Timothy Armstrong, 6161 North May Avenue, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Calcined petroleum coke* (in bulk, in dump vehicles) from the facilities of Conalco, Inc. at Lake Charles, LA to the facilities of Revere Copper & Brass Co. at Scottsboro, AL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Conalco, Inc., P.O. Box LL, Lake Charles, LA 70601. Send protests to: Connie Stanley, Transportation Assistant, Room 240, Old Post Office and Courthouse Building, 215 Northwest Third, Oklahoma City, OK 73102.

MC 136650 (Sub-4TA), filed July 18, 1978. Applicant: FOOTE & DAVIES TRANSPORT CO., 3101 McCall Drive, Doraville, GA 30340. Representative: Frank D. Hall, Suite 713, 3384 Peachtree Road NE., Atlanta, GA 30326. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dated printed matter and waste paper*, from the plantsite and storage facilities of Mid-America Webpress, Inc., located at or near Lincoln, NE, to points in the United States (except AK and HI); and, materials, equipment and supplies used, sold or dealt in by printing plants (except commodities in bulk and those requiring special equipment), from all points in the United States (except AK and HI), to the plantsite and storage facilities of Mid-America Webpress, Inc., located at or near Lincoln, NE, under a continuing contract or contracts with Mid-America Webpress, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Mid-America Webpress, Inc., 3700 12th Street NW., Lincoln, NE 68501. Send protests to: Sara K. Davis, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

MC 141124 (Sub-24TA), filed July 18, 1978. Applicant: EVANGELIST COMMERCIAL CORP., P.O. Box 1709, Greater Wilmington Airport—Hangar 5, Wilmington, DE 19899. Representative: Boyd B. Ferris, 50 West Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by manufacturers and/or distributors of laboratory equipment, supplies, materials, and chemicals, except in bulk, between Norwood, OH and Elmsford, NY, on the one hand, and, on the other, points in the United States except AK and HI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): MC/B Manufacturing Chemists, 1909 Highland Avenue, Norwood, OH 45121. Send protests to: T. M. Esposito, Transportation Assistant, 600 Arch Street, Room 3238, Philadelphia, PA 19106.

MC 141150 (Sub-7TA), filed July 18, 1978. Applicant: ATLAS WAREHOUSING CO., 510 West Kearsley Street, P.O. Box 3551, Flint, MI 48506. Representative: Karl L. Gotting, Loomis, Ewert, Ederer, Parsley, Davis & Gotting, 1200 Bank of Lansing Building, Lansing, MI 48933. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned pickles, peppers, and relish*, from the facilities of Safie Bros. Farm Pickle Co., Inc., near Mount Clemens, MI, to points in OH, IL, IN, TN, GA, KY, and Buffalo and Rochester, NY, and their respective commercial zones, for 180 days. Supporting shipper(s): Safie Bros. Farm Pickle Co., Inc., 52365 North Gratiot, New Baltimore, MI 48047, George Safie, Chairman of Board. Send protests to: Timothy S. Quinn, Interstate Commerce Commission, Bureau of Operations, 604 Federal Building and U.S. Courthouse, 231 West Lafayette Boulevard, Detroit, MI 48226.

MC 142413 (Sub-5TA), filed July 18, 1978. Applicant: ROBERT STEVEN IRWIN, Route 1, Box 86-A, Jennings, FL 32053. Representative: John H. Wilbur and Christine Reiger Milton, P.O. Box 58, Jacksonville, FL 32202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Roof and floor joists and materials; accessories and equipment and completed products* thereof, from the Trus Joist plant in Valdosta, GA, to DE, NJ, PA, NY, OK, CT, RI, MI, WI, IA, IL, IN, and MO, for 180 days, under a continuing contract or contracts with Trus Joist Corp. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Trus Joist Corp., P.O. Box 986, Valdosta, GA 31601. Send protests to: G. H. Fauss, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 143775 (Sub-13TA), filed July 21, 1978. Applicant: PAUL YATES, INC., 6601 West Orangewood, Glendale, AZ 85301. Representative: Edward N. Button, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, MD 21740. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal wire*, from Willimantic, CT; Siloam Springs, AR; and Enka, NC; and their respective commercial zones; to points in CA, OR, WA, AZ, AR, NV, NM, and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Brand-Rex Co., a part of Akzona Inc., P.O. Box 495, Willimantic, CT 06226. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Room 2020, Federal Building, 230 North First Avenue, Phoenix, AZ 85025.

MC 144688 (Sub-6TA), filed July 18, 1978. Applicant: READY TRUCKING, INC., 4722 Lake Mirror Place, Forest Park, GA 30050. Representative: Lavern R. Holdeman, d.b.a. Peterson, Bowman, Larsen & Swanson, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by wholesale and retail chain, grocery and food business houses (except frozen commodities and commodities in bulk), from Jeffersonville, IN, to Jacksonville, FL and Atlanta, GA, and points in their respective commercial zones; restricted to the transportation of shipments originating at the facilities of Colgate-Palmolive Co., Inc., at or near Jeffersonville, IN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Colgate-Palmolive Co., Inc., State and Woerner Streets, Jeffersonville, IN 47130. Send protests to: Sara K. Davis, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

MC 144688 (Sub-7TA), filed July 18, 1978. Applicant: READY TRUCKING, INC., 4722 Lake Mirror Place, Forest Park, GA 30050. Representative: Lavern R. Holdeman of Peterson, Bowman, Larsen & Swanson, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by wholesale, retail, and chain grocery and food business houses (except frozen commodities and commodities in bulk, between Atlanta, GA, and Houston, TX, and points in their respective commercial zones; restricted to the transportation of shipments originating at or destined to the facilities of The Clorox Co., at or near Atlanta, GA, and Houston, TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The Clorox Co., 1221 Broadway, Oakland, CA 94612. Send protests to: Sara K. Davis, District Supervisor, Interstate Commerce Com-

mission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

MC 145016 (Sub-1TA), filed July 16, 1978. Applicant: DAVIS & DAVIS DISPOSAL CO., INC., P.O. Box 550, Darlington, SC 29532. Representative: John H. Lumpkin, Jr., 1250 SCN Center, Columbia, SC 29201. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Steel mill bag house dust* from plantsite of Nucor Steel Co. in Darlington County, SC, to the plantsite of Royster Co. in Chesapeake, VA, under a continuing contract or contracts with Royster Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Royster Co., P.O. Box 1940, Norfolk, VA 23501. Send protests to: E. E. Strotheid, District Supervisor, Room 302, 1400 Building, 1400 Pickens Street, Columbia, SC 29201.

MC 145182TA, filed July 24, 1978. Applicant: M & M DELIVERY SERVICE, INC., 116 Chestnut Street, Mount Sterling, OH 43143. Representative: David A. Turano, Esq., 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Merchandise* dealt in by retail department stores, between Washington Courthouse, OH, on the one hand, and, on the other, points in OH. Restricted to (1) service performed under contract, or contracts, with Aldens, Inc., of Chicago, IL, and (2) the transportation of traffic having a prior or subsequent movement in interstate commerce by motor vehicle, for 180 days. Supporting shipper(s): Aldens, Inc., 5000 West Roosevelt Road, Chicago, IL 60607. Send protests to: Frank L. Calvary, District Supervisor, Interstate Commerce Commission, 220 Federal Building and U.S. Courthouse, 85 Marconi Boulevard, Columbus, OH 43215.

MC 145188TA, filed July 26, 1978. Applicant: CECIL W. HARRELL & MARION SMITH, d.b.a. H & S TRANSPORTATION SERVICE, 1224 East Crawford Street, Tampa, FL 33604. Representative: Marie T. Loepp, 927 15th Street NW., Suite 306, Washington, DC 20005. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Buildings, complete or in sections,* traveling on their own or removable undercarriages, *bank vaults, and modular bank buildings,* from points in Pinellas County, FL, to points in AL, AR, CT, DE, DC, GA, IL, IN, KY, LA, ME, MD, MA, MI, MS, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, and WI, for 180 days. There is no environmental impact involved in this application. Supporting shipper(s): Diebold Contract Services, Inc., 12690 60th Street North, Clearwater, FL 33520. Send protests to: Donna M. Jones, Transportation Assistant, Interstate Commerce Commission, Montery Building, Suite 101, 8410 NW. 53d Terrace, Miami, FL 33166.

MC 145190TA, filed July 26, 1978. Applicant: D. A. D. TRANSPORT CORP., 3832 New Cummings Road, Chattanooga, TN 37409. Representative: Daniel O. Hands, Attorney at Law, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Confectionery* (except in bulk), in mechanically refrigerated equipment, (1) from the facilities of Brock Candy Co. at or near Chattanooga, TN, to points in the States of AL, AR, CT, DE, FL, GA, IL, IN, IA, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TX, VT, VA, WV, WI, and DC; and (2) *equipment, materials, and supplies used or useful in the manufacture of confectionery* (except in bulk), in mechanically refrigerated equipment, from points in the States of GA, IL, LA, NY, and NC and from the points of Dover, DE; Jacksonville, FL; Covington, KY; Natick, MA; Union, NJ; Cleveland, OH; York, PA; Fork Union, VA; and Stanley, WI, to the facilities of Brock Candy Co. at or near Chattanooga, TN; restricted in parts (1) and (2) to the transportation of traffic originating at the named origins and destined to the named destinations, for 180 days. Supporting shipper: Brock Candy Co., P.O. Box 1407, Chattanooga, TN 37401. Send protests to: Glenda Kuss, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Suite A-422 U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 145209TA, filed July 18, 1978. Applicant: WALTER MARTIN BRINKERHOFF, d.b.a. W. M. BRINKERHOFF TRUCKING, 1205 Loma Avenue, Monrovia, CA 91016. Representative: Milton W. Flack, 4311 Wilshire Boulevard, Suite 300, Los Angeles, CA 90010. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Chinaware, earthenware and clay products,* (a) from the facilities of GMMC Sales Corp., located at El Monte, CA, to points in AZ, NE, TX, and NM, (b) from the facilities of Marshall Pottery, located at Marshall, TX, to the facilities of GMMC Sales Corp., located at El Monte, CA, under a continuing contract or contracts with GMMC Sales Corp., for 180 days. Supporting shipper(s): GMMC Sales Corp., 10675 Hickson Street, El Monte, CA 91731. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321, Federal Building, 300 North Los Angeles Steet, Los Angeles, CA 90012.

MC 145210TA, filed July 25, 1978. Applicant: B & R TRANSPORT, INC., R.F.D. 2, Fairfield, ME 04937. Representative: Ralph W. Farris, Jr., 88 Winthrop Street, Augusta, ME 04330. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Sawdust, wood shavings, and wood chips* between points in ME and ports of entry on the international boundary line between the United States and Canada at or near Fort Kent, Madawaska, Houlton, Vanceboro, and Calais, ME, under a continuing contract or contracts with A. W. Chaffee, for 180 days. Supporting shipper(s): A. W. Chaffee, Box 231, Oakland, ME 04763. Send protests to: Donald G. Weiler, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 305, 76 Pearl Street, Portland, ME 04111.

MC 145211TA, filed July 26, 1978. Applicant: IDA M. SHERMAN, d.b.a. J-B MOTOR CO., 2422 Custer Avenue, Billings, MT 59102. Representative: William R. Sherman (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Used cars and pickup trucks* between Billings, MT, on the one hand, and, on the other, all points in ND, SD, WY, CO, TX, ID, UT, NE, and NM, for 180 days. Supporting shipper(s): Lee A. Judson, president, Auto Auction of Billings, One Cerise Road, Billings, MT 59103. Send protests to: Paul J. Labane, Interstate Commerce Commission, 2602 First Avenue North, Billings, MT 59101.

MC 145213TA, filed July 21, 1978. Applicant: DEEP SOUTH TRUCKING, INC., P.O. Box 304, Hwy 11 North, Purvis, MS 39475. Representative: Kent F. Hudson, 202 Main Street, Purvis, MS 39475. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Lumber, sawdust, and wood chips* between the plantsite of Purvis Hardwood Lumber Co., Purvis, MS, on the one hand, and, on the other, points in MS, LA, TX, OK, KS, NE, IA, MN, WI, IL, MO, AR, TN, KY, IN, MI, OH, VA, WV, GA, PA, FL, AL, NC, and SC, under a continuing contract or contracts with Purvis Hardwood Lumber Co., Inc., for 180 days. Supporting shipper(s): Purvis Hardwood Lumber Co., Inc., P.O. Box 266, Purvis, MS 39475. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Room 212, 145 East Amite Building, Jackson, MS 39201.

By the Commission.

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

[FR Doc. 78-27037 Filed 9-25-78; 8:45 am]

[7035-01]

[Notice No. 175]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. W-1152 (Sub-4TA). By order of September 12, 1978, the Motor Carrier Board granted United Transportation, Inc., Bethel, Alaska, 90-day temporary authority to engage in the business of transportation by water vessel, in interstate commerce, in the transportation of general commodities, between Tuluksak, AK and points on the Kukokwim River at and north of Tuluksak, AK. Applicant is authorized to tack this authority with its existing authority under W-1152 at Tuluksak, AK. Andrew E. Hoge, Esq. 3201 "C" Street, Anchorage, AK 99502, applicant's representative.

Any interested person may file a petition for reconsideration within 20 days of the date of this publication. Within 20 days after the filing of such petition with the Commission, any interested person may file and serve a reply thereto.

By the Commission.

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

[FR Doc. 78-27039 Filed 9-25-78; 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

[M-165; Sept. 20, 1978]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 9 a.m., September 27, 1978.

PLACE: Room 1011, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: Docket 30332, IATA agreement proposing increase in North Atlantic cargo rates.

STATUS: Closed.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: Discussion of this item will involve issues of foreign policy relating to Order 78-6-78 and discussion of the Board's litigation strategy in the pending court review of Order 78-7-115. Premature disclosure of the options, plans, and opinions of the Board could seriously compromise the U.S. ability to resolve this matter in the best interest of the United States and seriously interfere with the Board's successful participation in pending civil proceedings. Accordingly, the following Members have voted that the meeting on this subject would involve matters the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action and specifically concern the agency's participation in a civil action within the meaning of the exemptions provided under 5 U.S.C. 552b(c) (9)(B) and (10) and 14 CFR section 410b.5 (9)(B) and (10):

Chairman, Alfred E. Kahn
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey

PERSON EXPECTED TO ATTEND

Board Members.—Chairman, Alfred E. Kahn; Member, Richard J. O'Melia; and Member, Elizabeth E. Bailey.

Assistants to Board Members.—Mr. Mike Roach, Mr. Elias Rodriguez, Mr. David M. Kirstein, and Mr. James Casey.

Office of the Managing Director.—Mr. Dennis Rapp and Mr. John Hancock.

Office of the General Counsel.—Mr. Phil Bakes, Mr. Larry Myers, and Mr. Mark Kahan.

Bureau of Consumer Protection.—Mr. Rueben Robertson and Mr. John Golden.

Bureau of Pricing and Domestic Aviation.—Mr. Michael E. Levine, Mr. Jim McMann, Mr. James Deegan, Mr. Herbert Aswall, and Mr. Don C. Sauers.

Bureau of International Affairs.—Mr. Donald Farmer.

Office of Economic Analysis.—Mr. Bob Frank and Mr. Richard Klem.

Office of the Secretary.—Mrs. Phyllis T. Kaylor and Ms. Deborah A. Lee.

GENERAL COUNSEL CERTIFICATION

I certify that this meeting may be closed to the public under 5 U.S.C. 552b(c) (9)(B) and (10) and 14 CFR 410b.5 (9)(B) and (10) and that the meeting may be closed to public observation.

GARY J. EDLES,
Acting General Counsel.

[S-1955-78 Filed 9-22-78; 3:59 pm]

[6351-01]

2

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 3 p.m., September 26, 1978.

PLACE: 2033 K Street NW., Washington, D.C., 8th floor conference room.

STATUS: Open.

MATTERS TO BE CONSIDERED: Commission discussion of fiscal year 1979 baseline calendar.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-1949-78 Filed 9-22-78; 3:12 pm]

[6712-01]

3

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Friday, September 22, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Open Commission meeting.

CHANGES IN THE MEETING: The following agenda item has been deleted:

Agenda, Item No., and Subject

Cable Television—1—Petition for reconsideration filed by People's Cable Co., Henrietta, N.Y.

Additional information concerning this meeting may be obtained from the FCC Public Information Office, telephone 202-632-6427.

Issued: September 22, 1978.

[S-1950-78 Filed 9-22-78; 3:12 pm]

[6712-01]

4

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Tuesday, September 26, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Special closed Commission meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and *Subject*

Hearing—1—Petitions for reconsideration and related interlocutory pleadings in the George T. Hernreich (KAIT-TV), Jonesboro, Ark., television renewal proceeding (Docket No. 19292).

Hearing—2—An application for review and a contingent application for review of a final Review Board decision in the *Strough* v. *The Western Union Telegraph Company* common carrier proceeding, involving a complaint of unlawful disclosure of a wire communication (Docket No. 20831).

Hearing—3—Application of review of a Review Board order denying an extension of construction permit for an FM station in Hampton, Iowa (Docket No. 21420).

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from the FCC Public Information Office, telephone 202-632-7260.

Issued: September 19, 1978.

[S-1951-78 Filed 9-22-78; 3:12 p.m.]

[6712-01]

5

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Wednesday, September 27, 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

Cable Television—1—Amendment of part 76 of the Commission's rules relating to the cable television certificate of compliance process.

Cable Television—2—Nondiscrimination in the employment policies and practices of cable television applicants and certificate holders and licensees of cable television relay stations (Docket No. 20829).

Cable Television—3—"Joint Petition for Reconsideration" of Arlington Telecommunications Corp., d.b.a. ARTEC (Arlington County, Va.), FCC 77-561, 65 FCC 2d 469 (1977), filed by National Broadcasting Co., Inc., licensee of Station WRC-TV (NBC, Channel 4); Metromedia, Inc., licensee of Television Broadcast Station WTTG (Ind., Channel 5); the Evening Star Broadcasting Co., formerly licensee of Station WJLA-TV (ABC, Channel 7); Post-Newsweek Stations, Capital Area, Inc., licensee of Station WTOP (now WDVM-TV) (CBS, Channel 9); and Channel 20, Inc., formerly licensee of Station WDCA-TV (Ind., Channel 20), all of Washington, D.C.

Common Carrier—1—Revisions to tariffs FCC Nos. 229, 240, 254, 255, 258, 260, 263, 269, rate increases related to the expiration of A.T. & T.-WU facility contracts and lease agreements.

Common Carrier—2—Revisions to the A.T. & T. Long Lines Department and Bell System Operating Cos. interim OCC tariffs to reflect a new expanded offering of telegraph grade facilities.

Common Carrier—3—Integration of rates and services, between the mainland and the offshore points of Alaska, Hawaii, and Puerto Rico/Virgin Islands.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from the FCC Public Information Office, telephone 202-632-7260.

Issued: September 22, 1978.

[S-1952-78 Filed 9-22-78; 3:12 pm]

[6714-01]

6

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 10 a.m., September 28, 1978.

PLACE: Board Room, 6th floor, FDIC Building, 550 17th Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Disposition of minutes of previous meetings.

Applications for Federal deposit insurance.

Greater Pacific Bank, a proposed new bank to be located at 231 Southwest Washington Street, Albany, Oreg., for Federal deposit insurance.

First City Bank—Bear Creek, a proposed new bank to be located on State Highway 6, about 4 miles north of Interstate Highway 10, Bear Creek (Unincorporated), Tex., for Federal deposit insurance.

Rose Capital Bank, a proposed new bank to be located at 1000 West Southwest Loop 323, Tyler, Tex., for Federal deposit insurance.

Requests for reports on the competitive factors involved in proposed mergers, purchase and assumption transactions, or consolidations:

Request by the Comptroller of the Currency for a report on the competitive factors involved in the proposed merger of the Chester National Bank, Chester, N.Y., with the National Union Bank of Monticello, Monticello, N.Y.

Request by the Comptroller of the Current for a report on the competitive factors involved in the proposed merger of the National Bank & Trust Co. of Norwich, Norwich, N.Y., with First National Bank in Sidney, Sidney, N.Y.

Memorandum and resolution proposing changes in the membership of the four standing committees of the Corporation.

Recommendations with respect to the amendment of Corporation rules and regulations:

Memorandum and resolution proposing the final adoption of a new part 345 of the Corporation's rules and regulations, to be entitled "Community Reinvestment."

Memorandum and resolution proposing the publication for comment of amendments to part 303 of the Corporation's rules and regulations to delegate the Board's authority to approve requests, pursuant to section 19 of the Federal Deposit Insurance Act, for the Corporation's consent to service of persons convicted of offenses involving dishonesty or a breach of trust as directors, officers, or employees of insured banks.

Memorandum and resolution proposing the publication for comment of amendments to parts 303, 304, and 328 of the Corporation's rules and regulations to revise the Corporation's procedures relating to remote service facilities.

Memorandum and order extending Federal deposit insurance on domestic branches of Puerto Rican banks.

Memorandum and resolution proposing the final adoption of "Truth in Lending Enforcement Guidelines."

Memorandum and resolution proposing the publication for comment of revisions in the reporting requirements for Reports of Condition and Reports of Income for mutual savings banks.

Memorandum and resolution proposing the publication for comment of revisions in the reporting requirements for Reports of Condition and Reports of Income for small banks.

Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.

Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Reports of security transactions authorized by the Acting Chairman.

CONTACT PERSON FOR MORE INFORMATION:

Alan R. Miller, Executive Secretary, 202-389-4446.

[S-1946-78 Filed 9-22-78; 3:12 pm]

[6714-01]

7

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 10:30 a.m., September 28, 1978.

PLACE: Board Room, 6th floor, FDIC Building, 550 17th Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Application for Federal deposit insurance:

Bank of St. Francisville, a proposed new bank to be located at 108 East Commerce Street, St. Francisville, La., for Federal deposit insurance.

Application for consent to establish a branch and a drive-in facility:

ComBank/Fairvilla, Fairvilla, Fla., for consent to establish a branch at 2420 East Colonial Drive and a drive-in facility at the northeast corner of Livingston Street and Bumby Avenue, both locations in Orlando, Fla.

Application for consent to merge and establish branches:

The Bank of Le Roy, Le Roy, N.Y., an insured State nonmember bank, for consent to merge under its charter, and with the title of "Genesee Country Bank," with the Citizens Bank, Attica, N.Y., also an insured State nonmember bank, and for consent to establish the two offices of the Citizens Bank as branches of the resultant bank.

Application for Federal deposit insurance, for consent to a purchase and assumption transaction, and for consent to establish a branch:

First State Bank of Encino, Encino (Los Angeles), Calif., for Federal deposit insurance and for consent to purchase the assets of and assume the liability to pay deposits made in the Encino Branch of the Hongkong Bank of California, San Francisco, Calif., which would be operated

as the sole office of First State Bank of Encino.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 43,634-SR—Surety Bank and Trust Co., Wakefield, Mass.

Case No. 43,649-L—International City Bank & Trust Co., New Orleans, La.

Case No. 43,655-L—Franklin National Bank, New York, N.Y.

Case No. 43,657-L—The Drovers' National Bank of Chicago, Chicago, Ill.

Case No. 43,659-L—The Drovers' National Bank of Chicago, Chicago, Ill.

Case No. 43,660-L—Franklin National Bank, New York, N.Y.

Case No. 43,665-L—Banco Credito y Ahorro Ponceno, Ponce, P.R.

Recommendations with respect to the initiation or termination of cease-and-desist proceedings, termination-of-insurance proceedings, or suspension or removal proceedings against certain insured banks or officers or directors thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

CONTACT PERSON FOR MORE INFORMATION:

Alan R. Miller, Executive Secretary, 202-389-4446.

[S-1947-78 Filed 9-22-78; 3:12 pm]

[6740-02]

8

SEPTEMBER 22, 1978.

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 9 a.m. to 12 noon, September 29, 1978.

PLACE: Room 9306, 825 North Capitol Street NE., Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Staff briefing of the Commission in public session on price-squeeze related matters. This session will discuss the experience of the staff and Commission since the issuance of Order No. 563.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, telephone 202-275-4166.

[S-1948-78 Filed 9-22-78; 3:12 pm]

[6750-01]

9

FEDERAL TRADE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: FR 43, September 21, 1978, page No. 47852.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9:30 a.m., Wednesday, September 27, 1978.

CHANGES IN THE AGENDA: The Federal Trade Commission has changed the order of its previously announced open meeting of September 27, 1978.

MATTERS TO BE CONSIDERED:

1. Consideration of Seattle regional office requests for proposed TRR regarding disclosure of toxicity and identity of commercially sold plants, File No. 752 3109.

2. Consideration of proposed revision of Discovery Rules.

3. Review and proposed revision of Commission rules 2.34 and 3.25 (f) concerning placement on the public record of material relating to consent agreements.

4. Consideration of proposed modification to Interpretation 600.8 of the Fair Credit Reporting Act.

[S-1945-78 Filed 9-22-78; 3:12 pm]

[7590-01]

10

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Wednesday, September 27.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE CONSIDERED:

WEDNESDAY, SEPTEMBER 27; 1:30 P.M.

1. Discussion of employee allegations (approximately 1 hour, closed—exemption 6), postponed from September 15, 1978.

2. Discussion of personnel matter (approximately 1 hour, closed—exemption 6).

3. Affirmation items (approximately 10 minutes, public meeting):

a. Kranish FOIA Appeal 78-A-22 (tentative), and

b. Inerting of containment atmospheres (tentative).

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

WALTER MAGEE,
Office of the Secretary.

SEPTEMBER 20, 1978.

[S-1944-78 Filed 9-22-78; 11:28 am]

[7600-01]

11

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 9:30 a.m., October 4, 1978.

PLACE: Room 1101, 1825 K Street NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION:

Ms. Lottie Richardson, 202-634-4015.

Date: September 21, 1978.

[S-1943-78 Filed 9-22-78; 11:28 am]

[7910-01]

12

RENEGOTIATION BOARD.

DATE AND TIME: Friday, September 29, 1978; 9 a.m.

PLACE: Auditorium, 2d floor, 2000 M Street NW., Washington, D.C. 20446.

STATUS: Open to public observation.

MATTER TO BE CONSIDERED: Chairman's annual report to the staff of the Renegotiation Board.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: September 22, 1978.

GOODWIN CHASE,
Chairman.

[S-1953-78 Filed 9-22-78; 3:12 pm]

[7910-01]

13

RENEGOTIATION BOARD.

DATE AND TIME: Tuesday, October 3, 1978; 2 p.m.

PLACE: Conference Room, 4th floor, 2000 M Street NW., Washington, D.C. 20446.

STATUS: Closed to public observation.

MATTER TO BE CONSIDERED: Personnel matter.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M

Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: September 22, 1978.

GOODWIN CHASE,
Chairman.

[S-1954-78 Filed 9-22-78; 3:12 pm]

14

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Week of September 25, 1978 (changes).

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED: Wednesday, September 27, 3:30 p.m. (approximately) Briefing by executive branch on export and nonproliferation matters (approximately 1 hr) (closed-exemption 1). Friday, September 29, 10 a.m. 1. Discussion of 10 CFR Part 21 Applicability to Nonlicensee Suppliers of Commercial Grade Items (approximately 1 hr) (public meeting). 2. Affirmation session (approximately 10 min) (public meeting). a. Inerting of containment atmospheres. b. Kranish FOIA appeal 78-A-22. (Note: Postponed from September 27, 1978).

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

WALTER MAGEE,
Office of the Secretary.

SEPTEMBER 22, 1978.

[S-1959-78 Filed 9-25-78; 10:01 am]

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federal register

TUESDAY, SEPTEMBER 26, 1978
PART II

AGENCY FOR INTERNATIONAL DEVELOPMENT

COMMODITY FUTURES TRADING COMMISSION

COMMITTEE FOR THE PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

NATIONAL LABOR RELATIONS BOARD

PANAMA CANAL COMPANY—CANAL ZONE GOVERNMENT

RAILROAD RETIREMENT BOARD

■

PRIVACY ACT OF 1974

Annual Publication

[4710-02]

DEPARTMENT OF STATE

Agency for International Development

PRIVACY ACT ISSUANCES

Notice of Incorporation by Reference

Agency: Agency for International Development.

Action: Incorporation by reference of Privacy Act issuances.

Summary: Federal agencies are required by the Privacy Act of 1974 to give annual notice of certain records they maintain. The notices published last year were compiled by the Office of the Federal Register into "Privacy Act Issuances—1977 Compilation." The purpose of this document is to incorporate by reference the notices that appear in "Privacy Act Issuances—1977 Compilation".

Dates: This document fulfills the annual notice requirements of the Privacy Act for 1978.

For further information contact:
Mr. James L. Harper
Agency for International Development
Washington, D.C. 20523

Approval of the Director

The notices of systems of records of this agency which appear in "Privacy Act Issuances—1977 Compilation" are incorporated by reference. The Director of the Office of the Federal Register granted approval to incorporate by reference these Privacy Act issuances on July 13, 1978.

1977 Compilation Up-to-Date

Information about this agency's systems of records that appears in "Privacy Act Issuances—1977 Compilation" is complete and up-to-date. Since publication of the 1977 Compilation, this agency has made no changes to its systems of records.

Availability of 1977 Compilation

"Privacy Act Issuances—1977 Compilation" is available from Regional Depository Libraries at 50 locations around the country and can be examined at these libraries free of charge. The 1977 Compilation is also available at the General Services Administration Federal Information Centers, which are located at 38 central points around the country and may be examined at the central headquarters and all field offices of this agency. It is also available for purchase from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Upon request, the Office of the Federal Register will furnish a photocopy of the full text of a particular records system published in the 1977 Compilation for a nominal fee.

Location of Notices in 1977 Compilation

Notices of this agency's systems of records appear in Volume 1 of the 1977 Compilation at 47371 thru 47387 (42 FR 47341). The price of this Volume is six dollars and fifty cents.

James W. McCulla,
Director, Office of Public Affairs.

[FR Doc. 78-26404 Filed 9-25-78; 8:45 am]

[6351-01]

COMMODITY FUTURES TRADING COMMISSION

PRIVACY ACT ISSUANCES

Notice of Incorporation by References

Agency: Commodity Futures Trading Commission.

Action: Incorporation by reference of Privacy Act issuances.

Summary: Federal agencies are required by the Privacy Act of 1974 to give annual notice of certain records they maintain. The notices published last year were compiled by the Office of the Federal Register into "Privacy Act Issuances—1977 Compilation." The purposes of this document is to incorporate by reference the notices that appear in "Privacy Act Issuances—1977 Compilation" and to publish in full the systems that this agency has amended since publication of the 1977 Compilation.

Dates: This document fulfills the annual notice requirements of the Privacy Act for 1978.

For Further Information Contact:
Ralph Marceron
(202) 254-6599

Approval of the Director

The notices of systems of records of this agency which appear in "Privacy Act Issuances—1977 Compilation" are incorporated by reference. The Director of the Office of the Federal Register granted approval to incorporate by reference these Privacy Act issuances on August 8, 1978. Published below is the full text of systems of records that this agency has amended since publication of the 1977 Compilation.

Availability of 1977 Compilation

"Privacy Act Issuances—1977 Compilation" is available from Regional Depository Libraries at 50 locations around the country and can be examined at these libraries free of charge. The 1977 Compilation is also available at the General Services Administration Federal Information Centers, which are located at 38 central points around the country and may be examined at the central headquarters office of the Commission. It is also available for purchase from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. Upon request, the Office of the Federal Register will furnish a photocopy of the full text of a particular records system published in the 1977 Compilation for a nominal fee.

Location of Notices in 1977 Compilation

Notices of the Commission's systems of records appear in Volume VI of the 1977 Compilation at pages 54742-54755 (42 FR 54742-54755, October 7, 1977). The price of this Volume is five dollars and seventy-five cents.

Donald L. Tendick,
Executive Director.

The Location of Systems of Records

The first and sixth items described above call for the address of the Commission Office involved. The Commission maintains offices in the following locations:

2033 K Street, NW.
Washington, D.C. 20581
Telephone: (202) 254-8630

233 South Wacker Drive
46th Floor
Chicago, Illinois 60606

4901 Main Street
Room 208
Kansas City, Missouri 64112

One World Trade Center
Suite 4747
New York, New York 10004

Two Embarcadero Center
Suite 1600
San Francisco, California 94111

510 Grain Exchange Building
Minneapolis, Minnesota 55415

Where multiple locations are involved in a system notice, rather than listing each address the notice merely identifies the offices and refers to this introductory section for each address. In the system notice, the Washington office is referred to as the "principal office," the Chicago, Kansas City, New York, and San Francisco offices as the "regional offices," and all offices collectively are described as "all CFTC officers."

In many cases records within a system will not all be available at each of the offices listed in the system notice. For example, investigation files are basically maintained in the office where the investigation is being conducted, but certain information may be maintained in other offices as well. Similarly, many but not necessarily all employee records are maintained in the particular office where the employee works. In addition, the Commission's computer is physically located in Chicago, although information in computer printout form may be available in any office.

Of course, it will be the Commission's responsibility, unless otherwise specified in the system notice, to determine where the particular records being sought are located. However, if the individual seeking the records in fact knows the location, it would be helpful to the Commission if he would indicate that location.

System Notices

The Commission's system of records are set forth below. For further information contact:

Privacy Unit
Commodity Futures Trading Commission
2033 K Street NW.
Washington, D.C. 20581

CFTC—1

System name: Matter Register and Matter Indices—CFTC

System location: Records in this system are maintained in the Commission's principal office and in each of the regional offices. Addresses and telephone numbers of these offices are set forth in the introduction to these system notices under the caption "location of systems of records."

Categories of individuals covered by the system: a. Persons alleged to have violated or suspected of having violated the Commodity Exchange Act or the rules and regulations adopted thereunder.

b. Persons lodging complaints with the Commission.

c. Agency referrals.

Categories of records in the system: The records in this system include:

a. The matter register, a summary of complaints received from the public concerning an individual (or business entity) as well as a summary of leads as to possible areas of violation which were developed from other sources. A complaint number is assigned to each case and the record is filed according to that number. The register also, among other matters, names the individual complained about, his employer, the name of the complainant, the type of complaint, the date received, the disposition, the date closed and the investigator assigned.

b. The matter index, which contains a summary of the same information as the complaint register, but is maintained alphabetically by the name of the person who is the subject of the complaint.

c. The matter index, which contains a summary of the same information as the complaint register but is maintained alphabetically by the name of the complainant.

Authority for maintenance of the system: Section 8 of the Commodity Exchange Act, 7 U.S.C. 12.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses applicable to this system of records are set forth in the introduction to these system notices under the caption "general statement of routine uses."

Storage: Paper records in file folders, in looseleaf binders, or on index cards.

Retrievability: Information in the register is retrievable by assigned matter number. This is cross-indexed to the individual's name through the matter index.

Safeguards: Records are located in secured rooms or on secured premises with access limited to those whose official duties require access. In appropriate cases the records are maintained in lockable file cabinets.

Retention and disposal: The index is maintained indefinitely. The register is maintained on the premises for 5 years, then in the Federal Records Center for 5 years before being destroyed.

System manager(s) and address: The Director of the Division of Enforcement in the Commission's principal office and the Regional Counsel of each regional office. Addresses of these offices are set forth in the introduction of these system notices under the caption "location of systems of records."

Notification procedure: Individuals seeking to determine whether this system of records contains information about them should address their inquiries to the Privacy Unit, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Telephone: (202) 254-8630.

Record access procedures: Individuals seeking access to records about themselves in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Contesting record procedures: Individuals contesting the content of records about themselves contained in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Record source categories: Persons submitting complaints to the Commission; other miscellaneous sources including customers, other law enforcement and regulatory agencies, commodity exchanges, various trade sources, and items generated internally by the Commission staff.

CFTC—2

System name: Correspondence Files—CFTC

System location: These records are maintained in the Commission's principal offices at 2033 K Street, NW., Washington, D.C. 20581.

Categories of individuals: Persons corresponding with the Commission, directly or through attorneys or other representatives. Persons discussed in correspondence to or from the Commission.

Categories of records in the system: This system contains incoming and outgoing correspondence and indices of correspondence, and certain internal reports and memoranda related to the correspondence.

This system does not include all Commission correspondence, but only those records which are part of a general correspondence file maintained by the office involved. It includes correspondence indexed by subject matter, by date or by assigned number. It includes correspondence files maintained by the Office of Public Information relating to requests by individuals under the Freedom of Information Act and the Privacy Act.

Authority for maintenance of the system: 44 U.S.C 3101

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses applicable to this system of records are set forth in the introduction to these system notices under the caption "general statement of routine uses."

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders, in looseleaf binders, or on index cards.

Retrievability: By name. This may be the name of the person who sent the letter, the person who received the letter, or the person on whose behalf the letter was sent or received. On occasion it may also be another person who was the principal subject of the letter, where circumstances appear to justify this treatment. See previous discussion concerning the category of records maintained in this system.

Safeguards: Records are located in secured rooms or on secured premises with access limited to those whose official duties require access.

Retention and disposal: These records are maintained indefinitely or for varying periods of time depending on the policies and practices of the offices involved.

System manager(s) and address: The system managers include: a. The General Counsel; b. the Director of the Office of Public Information; c. the Director of the Division of Enforcement; d. the Office of the Secretariat. All are located at 2033 K Street, N.W., Washington, D.C. 20581.

Notification procedure: Individuals seeking to determine whether this system of records contains information about them should address their inquiries to the Privacy Unit, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581 Telephone: (202) 254-8630. The request should specify the system manager under whose jurisdiction the records are maintained, if known.

Record access procedures: Individuals seeking access to records about themselves in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Contesting record procedures: Individuals contesting the content of records about themselves contained in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Record source categories: Persons corresponding with the Commission and correspondence and memoranda prepared by the Commission.

CFTC—3

System name: Docket Files—CFTC

System location: The records are maintained in the Office of Hearings and Appeals in the Commission's principal offices at 2033 K Street, NW., Washington, D.C. 20581.

Categories of individuals covered by the system: Parties and other persons involved in any CFTC proceeding.

Categories of records in the system: The records in this system include all pleadings, motions, applications, stipulations, affidavits, transcripts and documents introduced as evidence, briefs, orders, findings, opinions, and other matters which are part of the record of an administrative proceeding. They also contain related correspondence and indices.

Authority for maintenance of the system: The Commission is authorized or required to conduct hearings under several provisions of the Commodity Exchange Act. The maintainenance of these files is a necessary concomitant for the conduct of orderly hearings. See also 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These are public records, except to the extent the Commission or the assigned hearing officer determines they may be treated as non-public consistent with the provisions of the Freedom of Information Act and that for good cause they should be treated as non-public. Non-public portions may be used for any purpose specifically authorized by the hearing officer who ordered non-public treatment or by the Commission.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: These records are filed by the docket number and cross-indexed by the respondent's name, and his attorney's name.

Safeguards: The information in these files is in most cases a matter of public record. Those items which the Commission or the hearing officer has directed be kept non-public are segregated and precautions are taken to assure that access is restricted only to authorized personnel.

Retention and disposal: These records are maintained in the files of the Commission indefinitely.

System manager(s) and address: Chief Administrative Law Judge, Office of Hearing and Appeals, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581.

Notification procedure: Individuals seeking to determine whether this system of records contains information about them should address their inquiries to the Privacy Unit, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Telephone: (202) 254-8630.

Record access procedures: Individuals seeking access to records about themselves in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Contesting record procedures: Individuals contesting the content of records about themselves contained in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Record source categories: Commission staff members; opposing parties and their attorneys; witnesses in the proceeding; and other miscellaneous sources.

CFTC—4

System name: Employee Leave, Time and Attendance—CFTC.

System location: These records are maintained by all CFTC offices at the addresses set forth in the introduction to these system notices under the caption "location of systems of records."

Categories of individuals covered by the system: All CFTC employees.

Categories of records in the system: This system includes various records reflecting a breakdown of time and attendance of CFTC employees, and a record of leave status.

Authority for maintenance of the system: 5 U.S.C. 6301-6323; 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: a. In response to legitimate requests, this information may be provided to other federal agencies for the purpose of hiring or retaining employees, and may be provided to other prospective employers, to the extent that the information is relevant to the prospective employer's decision in the matter.

b. The information may be provided to the Justice Department or other federal agencies or used by the Commission in connection with any investigation, or administrative or legal proceeding involving any violation of any federal law or regulation thereunder.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders or on index cards.

Retrievability: By the name of the employee or by the employee number, cross-indexed by name.

Safeguards: The records are maintained in locked cabinets.

Retention and disposal: Records for current employees are maintained for three years; the final record of former employees is maintained for ten years, then destroyed.

System manager(s) and address: For employees of the Commission's principal office records are maintained by the Budget Officer. For regional office employees, records are maintained by the administrative officer in each of the regional offices. Addresses of these offices are set forth in the introduction to these system notices under the caption location of systems of records."

Notification procedure: Individuals seeking to determine whether this system of records contains information about them should address their inquiries to the Privacy Unit, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Telephone: (202) 254-8630.

Record access procedures: Individuals seeking access to records about themselves in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Contesting record procedures: Individuals contesting the content of records about themselves contained in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Record source categories: The individual on whom the record is maintained.

CFTC—7

System name: Employee Records maintained by the National Finance Center/USDA—CFTC.

System location: National Finance Center, U.S. Department of Agriculture, New Orleans, Louisiana 70160.

Categories of individuals covered by the system: All CFTC employees.

Categories of records in the system: The National Finance Center is used by the Commission to provide data processing capability for various personnel, payroll and accounting related matters. The records in the system include:

a. General records relating to the employee including information from the notification of personnel action (Form 350 and 350A) prepared and submitted by the CFTC, and other related sources. The information includes the name, social security or other employee number, birth date, veteran's preference, tenure, leave group, insurance coverage, retirement coverage, type of employment, date service commenced and ended, grade and step, base salary, duty station, various computation dates, leave codes and status, employing office and other miscellaneous information.

b. Various payroll related information for CFTC employees, including payroll and leave data for each employee relating to rate and amount of pay, leave, and hours worked, and leave balances, tax and retirement deductions, life insurance and health insurance deductions, savings allotments, savings bond and charity deductions, mailing addresses and home addresses. This includes copies of the CFTC time and attendance reports as well as authorizations relating to deductions.

Authority for maintenance of the system: 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information from these records is transmitted to the U.S. Treasury to effect reimbursement of travel expenses and issuance of paychecks, as well as distribution of pay to other sources according to employee instructions. Appropriate information from these records is also forwarded to taxing authorities and others receiving proceeds from the employee's pay.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders; magnetic tape.

Retrievability: Indexed by social security number or equivalent employee number and by name of employee.

Safeguards: Protection is afforded by limiting access to the offices where the records are maintained. Certain records are kept in lockable file cabinets.

Retention and disposal: Records are maintained indefinitely on tape; paper records are sent to the Federal Records Center after an appropriate period.

System manager(s) and address: Director, National Finance Center, U.S. Department of Agriculture, Office of Management and Finance, New Orleans, Louisiana 70160.

Notification procedure: Individuals seeking to determine whether this system of records contains information about them should address their inquiries to the Privacy Unit, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Telephone: (202) 254-8630.

Record access procedures: Individuals seeking access to records about themselves in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Contesting record procedures: Individuals contesting the content of records about themselves contained in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Record source categories: Records furnished by the CFTC.

CFTC—8

System name: Employment Applications—CFTC

System location: These records are maintained in the Commission's principal offices and in each of the regional offices. The address and telephone number of each of these offices is set forth in the introduction to these systems notices under the caption "location of systems of records".

Categories of individuals covered by the system: Applicant for positions with the CFTC.

Categories of records in the system: Contains the application form (SF-171) and/or the resume of the person applying.

Authority for maintenance of the system: 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information about these records is used in making inquires concerning the qualifications of the applicant.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Indexed by the name of the applicant; cross-indexed by interest.

Safeguards: These records are maintained in a locked file cabinet.

Retention and disposal: Applications are maintained two years, then destroyed.

System manager(s) and address: The Personnel officer of the Commission is the system manager for all records maintained in the Commission's principal office. The system manager for records maintained in the regional offices is the Administrative Officer in each regional office. Addresses of these offices are set forth in the introduction of these systems notices under the caption "location of systems of records".

Notification procedure: Individuals seeking to determine whether this system of records contains information about them should address their inquiries to the Privacy Unit, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Telephone (202) 254-8630.

Record access procedures: Individuals seeking access to records about themselves in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Contesting record procedures: Individuals contesting the content of records about themselves contained in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Record source categories: The individual of whom the record is maintained.

CFTC—10 (Reserved)

CFTC—11 (Reserved)

CFTC—12

System name: Fitness Investigations—CFTC

System location: These records are located in the Division of Trading and Markets in the Commission's principal offices at 2033 K Street, NW., Washington, D.C. 20581. Limited records are located at the Chicago regional office, 233 South Wacker Drive, 46th floor, Chicago, Illinois, 60606.

Categories of individuals covered by the system: Persons who have applied to the Commission for registration as an associated person or as a floor broker, including partners, sole proprietors, officers, directors, branch office managers, agents, more than 10 percent stockholders and persons performing similar functions for futures commission merchants, commodity trading advisers and commodity pool operators.

Categories of records in the system: Contains various information pertaining to the fitness of the above described persons to engage in business subject to the Commission's jurisdiction. The file includes the application for registration and supplements. It also includes correspondence, reports and memoranda reflecting information developed from various sources outside the agency. The system contains records of the CFTC investigation.

Authority for maintenance of the system: Section 8a(2)(B) of the Commodity Exchange Act, 7 U.S.C. 12a(2)(B).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses applicable to this system of records are set forth in the introduction to these system notices under the caption "general statement of routine uses."

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: By the name of the firm or individual.

Safeguards: Records are maintained in locked cabinets. Further protection is afforded by limiting access to the office where the record is maintained to those whose official duties require access.

Retention and disposal: The records are maintained on the premises for 5 years, then held in the Federal Records Center for 5 years before being destroyed.

System manager(s) and address: Regional Director, Commodity Futures Trading Commission, 233 South Wacker Drive, 46th Floor, Chicago, Illinois 60606.

Notification procedure: Individuals seeking to determine whether this system of records contains information about them should address their inquiries to the Privacy Unit, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Telephone (202) 254-8630.

Record access procedures: Individuals seeking access to records about themselves in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Contesting record procedures: Individuals contesting the content of records about themselves contained in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Record source categories: The individual on whom the record is maintained, his employer, federal, state, and local regulatory and law enforcement agencies, commodity and stock exchanges, National Association of Security Dealers, and other miscellaneous sources.

CFTC—14

System name: Matter Files—CFTC

System location: These records are maintained in the Commission's principal office and in the regional offices. Files concerning pending investigations may be located in other Commission offices when the investigation is being conducted by those offices. Addresses of Commission offices are set forth in the introduction to these system notices under the caption "location of systems of records."

Categories of individuals covered by the system: a. Individuals whom the staff of the Commission has reason to believe have violated, are violating, or are about to violate the Commodity Exchange Act and the rules, regulations, and orders promulgated thereunder, or the rules and regulations of any board of trade designated as a contract market.

b. Individuals whom the staff of the Commission has reason to believe may have information concerning violations of the Commodity Exchange Act and the rules, regulations, and orders promulgated thereunder, or the rules and regulations of any board of trade designated as a contract market.

c. Individuals involved in investigations authorized by the Commission concerning the activities of members of the Commission or its employees based upon formal complaint or otherwise.

d. Individuals filing Form 4-R (registration as an associated person) or Form 94 (biographical information questionnaire) in connection with an application for registration with the Commission.

Categories of records in the system: Contains anything obtained during the course of an investigation including data from Commission reporting forms, account statements, and other trading records, exchange records, bank records, and credit information, business records, reports of interviews, transcripts of testimony, exhibits to transcripts, affadavits, statements by witnesses, contracts and agreements. Also contains internal memoranda, reports of investigation, subpoenas, warning letters stipulations of compliance, correspondence and other miscellaneous matters. The nature of the personal information contained in these files varies according to what is considered relevant to the attorney assigned to the case based on the circumstances of the particular case under investigation. For example, the file may contain personal background information about the individual involved, his education and employment history, information on prior violations, and a wide variety of financial information, as well as detailed examination of the individual's activities during the period in question.

Authority for maintenance of the system: Section 8 of the Commodity Exchange Act, 7 U.S.C. 12; 44 U.S.C. 3101; 5 U.S.C. 552a(K)(2).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses applicable to this system of records are set forth in the introduction of these system notices under the caption "general statement of routine uses." In addition, information concerning traders and their activities may be disclosed and made public by the Commission to the extent permitted by law when deemed appropriate to further the practices and policies of the Commodity Exchange Act. Furthermore, information collected during the investigation may be included in public report to be issued by the Commission following an investigation, to the extent that this is authorized under Section 8 of the Commodity Exchange Act, 7 U.S.C. 12.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: The records are maintained by assigned case number or by the title of the case. Matter cases are filed by number and cross-indexed by matter title.

Safeguards: In addition to normal office and building security, certain of these records are maintained in locked file cabinets. All employees are aware of the sensitive nature of the information gathered during investigations.

Retention and disposal: Regional office records are maintained on the premises for 5 years, then sent to the Federal Records Center for 5 years, before being destroyed. The records in the Office of the General Counsel are generally maintained until the investigation is closed and any action arising therefrom has been completed, including all review at the appellate level. Thereafter, certain basic information may be retained and sent to the Federal Records Center, while the remaining information is either returned to the person from whom it was obtained or destroyed.

System manager(s) and address: Director of the Division of Enforcement in the Commission's principal office. The Regional Counsel of the Region where the investigation is being conducted. Addresses of CFTC offices are set forth in the introduction to these system notices under the caption "location of systems of records."

Notification procedure: Individuals seeking to determine whether this system of records contains information about them should address their inquiries to the Privacy Unit, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581. Telephone: (202) 254-8630.

Record access procedures: Individuals seeking access to records about themselves in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Contesting record procedures: Individuals contesting the content of records about themselves contained in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Record source categories: a. Reporting forms and other information filed with the Commission; b. boards of trade; c. futures commission merchants, commodity trading advisors, commodity pool operators, floor brokers, d. Federal, State and local regulatory and law enforcement agencies; e. banks, credit organizations and other institutions, pursuant to subpoena or otherwise; f. corporations, pursuant to subpoena or otherwise; g. individuals having knowledge of the facts, pursuant to subpoena or otherwise; h. attorneys; i. publications; j. courts; and k. other miscellaneous sources.

CFTC—16

System name: Case Files—CFTC

System location: Files in this system of records are maintained in the Commission's principal office and in the regional offices. For pending litigation, files may also be located in other offices participating in the litigation. Addresses and telephone numbers of CFTC offices are set forth in the introduction to the system notices under the caption "location of systems of records."

Categories of individuals covered by the system: Persons or firms against whom the Commission has issued a complaint based on violations of the Commodity Exchange Act or the rules and regulations promulgated thereunder.

Categories of records in the system: The file contains copies of various papers filed by or with the Commission or the courts in connection with administrative proceedings or injunctive actions brought by the Commission. It includes, as a minimum, a copy of the complaint and the final decision and order, and may contain other documents as well.

Authority for maintenance of the system: The maintenance of these files is necessary to the orderly and effective conduct of various litigation authorized under the Commodity Exchange Act and other Federal statutes. See e.g., Section 6c of the Commodity Exchange Act, 7 U.S.C. 13a-1, authorizing injunctive actions, and various provisions in that Act authorizing administrative actions.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information in these files is generally a matter of public record and may be disclosed without restriction. In other cases the routine uses applicable to this system of records are set forth in the introduction to these system notices under the caption "general statement of routine uses."

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in folders or binders.

Retrievability: Cases are maintained in alphabetical order and cross-indexed to the original matter number.

Safeguards: Protection of non-public records is afforded by general office security measures. Records are located in secured rooms or on secured premises with access limited to those whose official duties require access.

Retention and Disposal: These files are maintained indefinitely, although when the action is completed they are usually reduced to only the complaint and the final decision and order.

System manager(s) and address: These records are maintained by the Director of the Division of Enforcement at the Commission's principal office and by the Regional Counsel for the region where the records are located. Addresses and telephone numbers of CFTC offices are set forth in the introduction to these system notices under the caption "locations of systems of records."

Notification procedure: Individuals seeking to determine whether this system of records contains information about them should address their inquiries to the Privacy Unit, 2033 K Street NW., Washington, D.C. 20581. Telephone: (202) 254-8630.

Record access procedures: Individuals seeking access to records about themselves in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Contesting record procedures: Individuals contesting the content of records about themselves contained in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Record source categories: The information is generally obtained from the parties or their attorneys or from the Commission's Office of Hearings and Appeals or the relevant court.

CFTC—20

System name: Registration of Futures Commission Merchants, Commodity Trading Advisors and Commodity Pool Operators—CFTC.

System location: The primary files are maintained in the Chicago office. All CFTC offices have summary information in the form of microfiche records. Addresses and telephone numbers of these offices are set forth in the introduction of these systems notices under the caption "location of systems of records."

Categories of individuals covered by the system: Partners, sole proprietors, officers, directors, branch office managers, agents or more than 10 percent stockholders and persons performing similar functions for futures commission merchants, commodity trading advisors and commodity pool operators.

Categories of records in the system: Contains various information pertaining to the fitness of and registration as futures commission merchants, commodity trading advisors and commodity pool operators. The Chicago office maintains the applications for registration (Form 7-R and related schedules) and supplements, as well as correspondence between the firm and/or individuals and the agency relating to registration. A computer system is also maintained by the Chicago office. A computerized record is maintained for each individual engaged as an officer, partner, sole proprietor, branch office manager, agent, more than 10 percent stockholder of a futures commission merchant as listed in the application as such. The computer memory consists of the name, firm affiliation, title, date and place (optional) of birth, social security number (optional), fitness and business address of each individual engaged as a partner, sole proprietor, officer, director and persons performing similar functions for futures commission merchants, commodity trading advisors and commodity pool operators.

Authority for maintenance of the system: Section 4f(1) and 4n(1) of the commodity Exchange Act, 7 U.S.C. 6f(1) and 6n(1).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses applicable to this system of records are set forth in the introduction to these system notices under the caption "general statement of routine use."

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in manual form in file folders, in computer memory, in computer printouts and microfiche records.

Retrievability: The application, correspondence and other primary records are filed by the name of the firm. The computer records are maintained by the name of the individual officer, director, partner, etc. and serves as a cross-index to the primary registration file.

Safeguards: Protection of non-public records is afforded by general office security measures. Records are located in secured rooms or on secured premises with access limited to those whose official duties requires access. In appropriate cases the records are maintained in lockable file cabinets.

Retention and disposal: Applications for registration and related documents and correspondence are maintained on the premises for three years. Records are then held in the Federal Record Center for seven years and destroyed. The computer memory is maintained permanently on the premises and updated periodically as long as the individual remains associated as a principal with a registrant. Printouts are maintained on the premises for six months and destroyed. Microfiche records are maintained on the premises for two months and destroyed.

System manager(s) and address: Regional Director, Commodity Futures Trading Commission, 233 South Wacker Drive, 46th Floor, Chicago, Illinois 60606.

Notification procedure: Individuals seeking to determine whether this system of records contains information about them should address their inquiries to the Privacy Unit, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581. Telephone: (202) 254-8630.

Record access procedures: Individuals seeking access to records about themselves in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Contesting record procedures: Individuals contesting the content of records about themselves contained in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Record source categories: The application is submitted by the applicant. The computerized record is prepared from the application, including supplements, information developed during the fitness inquiry and from correspondence prepared by the Commission, the registrant or applicant, commodity and stock exchanges, other government agencies and other persons with relevant information concerning an individual and firm's fitness.

CFTC—21 [Reserved]

CFTC—22

System name: Registration of Associated Persons and Floor Brokers—CFTC.

System location: The primary files are maintained in the Chicago office. All CFTC offices have summary information in the form of microfiche records. Addresses and telephone numbers of these offices are set forth in the introduction of these systems notices under the caption "location of systems of records."

Categories of individuals covered by the system: Persons who have applied to the Commission for registration as an associated person or as a floor broker including partners, sole proprietors, officers, directors, branch office managers, agents, more than 10 percent stockholders and persons performing similar functions for futures commission merchants, commodity trading advisors and commodity pool operators.

Categories of records in the system: Contains various information pertaining to the fitness for registration as an associated person or floor broker. The system includes the application for registration (Form 8-R and related schedules) plus supplements and correspondence between the applicant/registrant and the Commission relating to registration. It also includes reports reflecting information developed from various sources outside the agency. A computerized system consisting primarily of information taken from the application is maintained by the Chicago office. The computer memory includes the name, date and place (optional) birth, social security number (optional), fitness, membership and firm affiliation, business address and residence (optional) of each registered floor broker. In addition to the above, computer memory also includes education and experience for each registered associated person. Monthly microfiche records list the names, business address, and membership affiliation of all registered floor brokers and the name and firm affiliation of all individuals engaged as associated persons. These microfiche records, as well as non-confidential portions of the application for registration are considered public records and available to any person for inspection and copying. In addition certain auxiliary records, such as card indexes, are maintained, summarizing information contained in the system regarding each floor broker and associated person.

Authority for maintenance of the system: Section 4(1) and 4k(2) of the Commodity Exchange Act. 7 U.S.C. 6(1) and 6k(2).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses applicable to this system of records are set forth in the introduction to these system notices under the caption "general statement of routine use."

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in manual form in file folders and on index cards, computer memory, and in computer printout form.

Retrievability: By the name of the individual. The computer cross-indexes the record to the name of the futures commission merchant, commodity trading advisor or commodity pool operator with whom the individual is associated.

Safeguards: Protection of non-public records is afforded by general office security measures. Records are located in secured rooms or on secured premises with access limited to those whose official duties require access. In appropriate cases the records are maintained in lockable file cabinets.

Retention and disposal: Applications for registration and related documents and correspondence are maintained on the premises for three years. Records are then held in the Federal Record Center for seven years and destroyed. The computer memory maintained permanently on the premises and updated periodically as long as the individual remains registered or associated with a registrant. Printouts are maintained on the premises for six months and destroyed. Microfiche records are maintained on the premises for two months and destroyed.

System manager(s) and address: Regional Director, Commodity Futures Trading Commission, 233 South Wacker Drive, 46th Floor, Chicago, Illinois 60606.

Notification procedure: Individuals seeking to determine whether this system of records contains information about them should address their inquiries to the Privacy Unit, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581 Telephone (202) 254-8630.

Record access procedures: Individuals seeking access to records about themselves in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Contesting record procedures: Individuals contesting the content of records about themselves contained in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Record source categories: The individual on whom the file is maintained, his employer, the commodity and stock exchanges, other government agencies and other persons with relevant knowledge about the individual. Correspondence may be prepared by the Commission or the applicant/registrant. The computer record is prepared from the application and supplement and from information developed during the fitness inquiry.

CFTC-23 (Reserved)

CFTC-24 (Reserved)

CFTC-26 (Reserved)

CFTC-27 (Reserved)

CFTC-29

System name: Reparations Complaints—CFTC

System location: these records are located in the Reparations Unit, Division of Enforcement, in the Commission's principal offices at 2033 K Street, NW., Washington, D.C. 20581.

Categories of individuals covered by the system: Individuals filing customer reparations complaints, as well as the firms and individuals named in the complaints.

Categories of records in the system: These files consist of reparations complaints, answers, correspondence, and miscellaneous motions filed with the Reparations Unit.

Authority for maintenance of the system: Section 14 of the Commodity Exchange Act, 7 U.S.C. A18.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These records are used in the conduct of the Commission's reparations program. In addition, these records can be used as set forth in the introduction to these system notices under the caption "General Statement of Routine Uses."

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Reparations files are maintained by number and are cross-indexed by the name of the complainant and respondent.

Safeguards: The information in these files is a matter of public record. The records are maintained in file boxes or cabinets.

Retention and disposal: At the present time records are maintained for an indefinite time period. After a case is forwarded to the Office of Hearings and Appeals, however, the records are included in the Commission's docket files and the Reparations Unit only maintains certain case records such as complaints, answers, and decisions and orders.

System manager(s) and address: Director, Division of Enforcement, Attention: Reparations Unit, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581.

Notification procedure: Individuals seeking to determine whether this system of records contains information about them should address their inquiries to the Privacy Unit, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Telephone: (202) 254-8630.

Record access procedures: Individuals seeking access to records about themselves in this system of records should address their inquiries to the Privay Unit at the address listed in the notification section above.

Contesting record procedures: Individuals contesting the content of records about themselves contained in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Record source categories: Persons filing reparation complaints or answers.

[FR Doc. 78-26405 Filed 9-25-78; 8:45 am]

[6820—33]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PRIVACY ACT ISSUANCES

Notice of Incorporation by Reference

Agency: Committee for Purchase from the Blind and Other Severely Handicapped.

Action: Incorporation by reference of Privacy Act issuances.

Summary: Federal agencies are required by the Privacy Act of 1974 to give annual notice of certain records they maintain. The notices published last year were compiled by the Office of the Federal Register into "Privacy Act Issuances—1977 Compilation." The purpose of this document is to incorporate by reference the notices that appear in "Privacy Act Issuances—1977 Compilation" and to publish in full the systems that this agency has amended since publication of the 1977 Compilation.

Dates: This document fulfills the annual notice requirements of the Privacy Act of 1978.

For further information contact:

C. W. Fletcher

(703) 557-1145

Approval of the Director

The notices of systems of records of this agency which appear in "Privacy Act Issuances—1977 Compilation" are incorporated by reference. The Director of the Office of the Federal Register granted approval to incorporate by reference these Privacy Act issuances on July 13, 1978.

1977 Compilation Up-To-date

Information about this agency's systems of records that appears in "Privacy Act Issuances—1977 Compilation" is complete and up-to-date. Since publication of the 1977 Compilation, this agency has made no changes to its systems of records.

Availability of 1977 Compilation

"Privacy Act Issuances—1977 Compilation" is available from regional Depository Libraries at 50 locations around the country and can be examined at these libraries free of charge. The 1977 Compilation is also available at the General Services Administration Federal information Centers, which are located at 38 central points around the country and may be examined at the central headquarters and all field offices of this agency. It is also available for purchase from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Upon request, the Office of the Federal Register will furnish a photocopy of the full text of a particular record system published in the 1977 Compilation for a nominal fee.

Location of Notices in 1977 Compilation

Notices of this agency's systems of records appear in Volume 1 of the 1977 Compilation of page 48075 (42 FR 48075, Sept. 22, 1977). The price of this Volume is six dollars and fifty cents.

Dated: September 1978.

C. W. FLETCHER,
Executive Director.

[FR Doc. 78-26406 Filed 9-25-78; 8:45 am]

[7545-01]

NATIONAL LABOR RELATIONS BOARD

PRIVACY ACT ISSUANCES

Notice of Incorporation by Reference

Agency: National Labor Relations Board.

Action: Incorporation by reference of Privacy Act issuances.

Summary: Federal agencies are required by the Privacy Act of 1974 to give annual notice of certain records they maintain. The notices published last year were compiled by the Office of the Federal Register into "Privacy Act Issuances—1977 Compilation." The purpose of this document is to incorporate by reference the notices that appear in "Privacy Act Issuances—1977 Compilation."

Dates: This document fulfills the annual notice requirements of the Privacy Act for 1978.

For further information contact:
Maurice O. Brice
202-254-9200

Approval of the Director

The notices of systems of records of this agency which appear in "Privacy Act Issuances—1977 Compilation" are incorporated by reference. The Director of the Office of the Federal Register granted approval to incorporate by reference these Privacy Act issuances on August 2, 1978.

1977 Compilation Up-To-Date

Information about this agency's systems of records that appears in "Privacy Act Issuances—1977 Compilation" is complete and up-to-date with respect to current systems. Since publication of the 1977 Compilation, this agency has published notification of a proposed system of records, Equal Employment Opportunity Program Management System, in the Federal Register Volume 43, No. 168, dated August 29, 1978 (43 FR 38646).

This system will become effective without further notice on October 28, 1978, unless the Board feels that a change is necessary due to comments received on or before that date:

System name: Equal Employment Opportunity Program Management System.

System location: Data Systems Branch, NLRB, 1717 Pennsylvania Avenue NW., Washington, D.C. 20570.

Categories of individuals covered by the system: Current and former NLRB employees.

Categories of records in the system: This system of records contains information such as employee name, social security number, Minority Group Designator (MGD) Code, employment status, sex, date of birth, payroll block and unit number, pay plan, grade and step, entrance on duty date, date of last promotion, date of last quality step increase, employment class and date of separation.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These records or information therefrom, are disclosed:

1. To Agency officials and employees who have a need for the record or information:
   a. In monitoring and evaluating the status and progress of minority/female employment.
   b. To respond to general requests for statistical information (without personal identification of individuals).
   c. As a data source for production of summary descriptive statistics and analytical studies in support of the Agency's EEO program.
   d. In connection with the investigation, processing, adjudication and/or settlement of an EEO complaint or civil action.
2. To the Civil Service Commission or other Federal agencies responsible for oversight and/or enforcement of Federal EEO regulations.
3. To a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
4. To the appropriate agency, whether Federal, State or local, where there is an indication of a violation, or potential violation of law, whether civil, criminal or regulatory in nature, charged with the responsibility of investigating or prosecuting such violation or enforcing or implementing the statute, rule, regulation, or, order issued pursuant thereto.
5. To officials of labor organizations recognized under Executive Order 11491, as amended, when relevant and necessary to their duties of exclusive representation of NLRB employees under the Order. Whenever feasible and consistent with responsibilities under the Order, such information shall be furnished in depersonalized form, i.e., without personal identifiers.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained on computer disk file and magnetic tape backup.

Safeguards: All doors to the computer room have combination locks and during duty hours the computer and magnetic tape backup are under surveillance of Agency personnel charged with custody of the records. After duty hours the computer disk file and magnetic tape backup are stored in a fireproof safe behind locked doors. Access is limited to authorized personnel only. All format programs are password protected and use of the machines for information printouts restricted to designated personnel.

Retention and disposal: The information in these records is updated as necessary as changes in the data elements occur. Information on former employees is retained for 3 years following their separation from the Agency.

System manager(s) and address: Director, Equal Employment Opportunity, NLRB, 1717 Pennsylvania Avenue NW., Washington, D.C. 20570.

Notification procedure: An individual inquiring whether this system contains a record on such individual should direct such inquiry to the System Manager specified above.

Access and contest: An individual seeking to gain access to, or to contest, records in the system pertaining to such individual should contact the System Manager specified above.

Record sources categories: Information in this syustem is obtained from the individual to whom the record pertains, Agency officials and from personnel records.

Retrievability: By social security account number or alphabetically by name.

Availability of 1977 Compilation

"Privacy Act Issuances—1977 Compilation" is available from Regional Depository Libraries at 50 locations around the country and can be examined at these libraries free of charge. The 1977 Compilation is also available at the General Services Administration Federal Information Centers, which are located at 38 central points around the country and may be examined at the central headquarters and all field offices of this agency. It is also available for purchase from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Upon request, the Office of the Federal Register will furnish a photocopy of the full text of a particular records system published in the 1977 Compilation for a nominal fee.

Location of Notices in 1977 Compilation

Notices of this agency's systems of records appear in Volume 1 of the 1977 Compilation at Page 47786 (42 FR 47786). The price of this Volume is six dollars and fifty cents.

Dated, Washington, D.C., September 8, 1978.

By direction of the Board.

George A. Leet,
Associate Executive Secretary.

[FR Doc. 78-26407 Filed 9-25-78; 8:45 am]

[3640-01]

PANAMA CANAL COMPANY—CANAL ZONE GOVERNMENT

PRIVACY ACT ISSUANCES

Notice of Incorporation by Reference

Agencies: Panama Canal Company and Canal Zone Government.

Action: Incorporation of Privacy Act issuances by reference.

Summary: The Privacy Act of 1974, 5 U.S.C. sec. 552a(e)(4), requires Federal agencies to give annual notice in the Federal Register of the character and existence of the systems of records that they maintain. The notices published last year were compiled by the Office of the Federal Register into "Privacy Act Issuances—1977 Compilation." The purpose of this document is to incorporate by reference the descriptions of Panama Canal Company/Canal Zone Government systems of records as they appear in that Compilation. This document fulfills the annual notice requirements of the Privacy Act for 1978.

For further information contact:

Mrs. Hazel M. Murdock

Assistant to the Secretary

Panama Canal Company

Room 312, Pennsylvania Building

425 13th Street N.W.

Washington, D.C. 20004

(Telephone: 202 724-0104)

Incorporation by Reference

By the publication of this notice, the Panama Canal Company and the Canal Zone Government are incorporating by reference the descriptions of their systems of records which appear in "Privacy Act Issuances—1977 Compilation."

Approval of the Director

The Director of the Office of the Federal Register granted approval to incorporate these Privacy Act issuances by reference on July 13, 1978.

Location of Notices in 1977 Compilation

The Panama Canal Company and the Canal Zone Government last published the full text of the descriptions of their systems of records in the Federal Register of September 22, 1977 (42 FR 48182-48227). Those descriptions appear in Volume I of "Privacy Act Issuances—1977 Compilation six dollars and fifty cents" at pp. 48182-48227.

1977 Compilation up to Date

The descriptions of these agencies' systems of records that appear in the 1977 Compilation are complete and up to date. Since publication of that Compilation, these agencies have made no changes to their systems of records.

Availability of 1977 Compilation

"Privacy Act Issuances—1977 Compilation" is available from Regional Depository Libraries at 50 locations around the country and can be examined at these libraries free of charge. The 1977 Compilation is also available at the General Services Administration Federal Information Centers, which are located at 38 central points around the country, and may be examined at the central headquarters and all field offices of this agency. In addition, Volume I of the Compilation may be examined at the Records Management Branch, Panama Canal Company (Room 14, Administration Building, Balboa Heights, Canal Zone). Upon request, the Office of the Federal Register will furnish a photocopy of the full text of a particular records system published in the 1977 Compilation for a nominal fee.

Clarence C. Payne,
Acting Administrative Assistant to the Governor-President.

[FR Doc. 78-26408 Filed 9-25-78; 8:45 am]

[7905-01]

RAILROAD RETIREMENT BOARD

PRIVACY ACT ISSUANCES

Notice of Incorporation by Reference

Agency: Railroad Retirement Board.

Action: Incorporation by reference of Privacy Act issuances.

Summary: Federal agencies are required by the Privacy Act of 1974 to give annual notice of certain records they maintain. The notices published last year were compiled by the Office of the Federal Register into "Privacy Act Issuances—1977 Compilation." The purposes of this document are to: incorporate by reference the notices that appear in "Privacy Act Issuances—1977 Compilation," publish in full three systems of records that this agency has amended since publication of the 1977 Compilation, give notice of a proposed change to one of these three systems and give notice of proposed changes to 10 other systems of records. These systems are also published in full below with proposed changes italicized.

The three systems of records amended since publication of the 1977 Compilation are: Master File of Railroad Employees' Creditable Compensation, Social Security Administration Summary Earnings File and Railroad Retirement, Survivor, and Pensioner Benefit System. The notice of these changes was published in the Federal Register on June 23, 1978 (43 FR 27267-27270). The proposed change to the Railroad Retirement, Survivor, and Pensioner Benefit System is the addition of a routine use which would authorize disclosure of medical records to vocational consultants in administrative proceedings.

An explanation of the proposed changes to the other 10 systems of records follows.

A routine use which authorizes release of records to attorneys is proposed for four systems of records: Unemployment Insurance Record File, Applications for Unemployment Benefits and Placement Service under the Railroad Unemployment Insurance Act, Protest and Appeals under the Railroad Unemployment Insurance Act and Railroad Unemployment and Sickness Insurance Benefit System.

The retention and disposal of certain records in both the Payroll Record System and Health Insurance Supplementary Medical Insurance Enrollment and Premium Payment System are being changed to reflect current procedures.

The period of retention of certain records in the Federal Employee Incentive Awards System is being revised due to a recent procedural change.

The safeguards of records in the Social Security Benefit Vouchering System have been updated to reflect recent changes.

The record system Medicare, Part B (Supplementary Medical Insurance) Payment System—Contracted to The Travelers Insurance Company and Appendix II have been changed to reflect changes due to location and organizational changes in The Travelers' offices.

In addition a number of minor editorial changes were made which do not affect the substance of any system.

Members of the public are invited to send their comments on the proposed changes to the Secretary of the Board, U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, no later than October 26, 1978.

Dates: This document fulfills the annual notice requirements of the Privacy Act for 1978.

For further information contact:

Mr. W. V. Radesk
Director of Management Control
U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611
Telephone 312-751-4690

Approval of the Director

The notices of systems of records of this agency which appear in "Privacy Act Issuances—1977 Compilation" are incorporated by reference. The Director of the Office of the Federal Register granted approval to incorporate by reference these Privacy Act issuances on July 24, 1978.

Availability of 1977 Compilation

"Privacy Act Issuances—1977 Compilation" is available from Regional Depository Libraries at 50 locations around the country and can be examined at these libraries free of charge. The 1977 Compilation is also available at the General Services Administration Federal Information Centers, which are located at 38 central points around the country. It is also available for purchase from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Upon request, the Office of the Federal Register will furnish a photocopy of the full text of a particular records system published in the 1977 Compilation for a nominal fee.

Location of Notices in 1977 Compilation

Notice of this agency's systems of records appear in volume I of the 1977 Compilation, pages 47469-47491. The price of this volume is six dollars and fifty cents.

Dated: September 12, 1978.

R. F. Butler,
Secretary.

System name: Master File of Railroad Employees' Creditable Compensation—RRB.

System location: U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

Categories of individuals covered by the system: All individuals with compensation creditable under the Railroad Retirement Act and Railroad Unemployment Insurance Act.

Categories of records in the system: Individual name, social security account number, claim number, date of birth, sex, race, last employer identification number, master file of service, and compensation 1937-current.

Authority for maintenance of the system: Section 7(b)(6) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(6)) and Section 12(1) of the Railroad Unemployment Insurance Act (45 U.S.C. 362(1).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: a. Records may be transferred to the Social Security Administration to correlate disability freeze actions and in cases where the railroad employees do not acquire 120 creditable service months before retirement or death or have no current connection with the railroad industry, to enable SSA to credit the employee with the compensation and to pay or deny benefits.

b. Yearly service months, cumulative service months, yearly creditable compensation and cumulative creditable compensation may be released to the employees directly or through their respective employers.

c. Service months and earnings may be released to employers or former employers for correcting or reconstructing earnings records for railroad employees.

d. Information may be released to contractors to fulfill contract requirements pertaining to specific activities related to the Railroad Retirement Act and/or the Railroad Unemployment Insurance Act.

e. Employee identification and potential entitlement may be furnished to the Social Security Administration, Bureau of Supplemental Security Income, to Federal, State, and local welfare or public aid agencies to assist them in processing application for benefits under their respective programs.

f. Employee identification and other pertinent information may be released to the Department of Labor in conjunction with payment of benefits under the Federal Coal Mine and Safety Act.

g. The last employer information may be disclosed to the Department of Health, Education, and Welfare in conjunction with the Parent Locator Service.

h. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

i. Pursuant to a request from an employer covered by the Railroad Retirement Act or the Railroad Unemployment Insurance Act, information regarding the employee's potential eligibility for unemployment, sickness or retirement benefits may be released to the requesting employer for the purpose of determining entitlement to and the rates of private supplemental pension, sickness or unemployment benefits and to calculate estimated benefits due from the employer.

j. If a request for information pertaining to an individual is made by an official of a labor organization of which the individual is a member and the request is made on behalf of the individual, information from the record of the individual concerning his anticipated benefit may be disclosed to the labor organization official.

k. Records may be disclosed in a court proceeding relating to any claims for benefits by the beneficiary under the Railroad Retirement Act or the Railroad Unemployment Insurance Act and may be disclosed during the course of an administrative appeal hearing in which such records are relevant to the issue.

l. In the event that this system of records, maintained by the Railroad Retirement Board to carry out its functions, indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in this system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

m. Information in this system of records may be released to the attorney representing an individual in connection with that individual's claim for benefits under the Railroad Retirement Act or the Railroad Unemployment Insurance Act, upon receipt of a written letter or declaration stating the fact of representation, subject to the same procedures and regulatory prohibitions as the subject individual.

n. All records may be disclosed to the Social Security Administration for purposes of administration of the Social Security Act.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape, magnetic disk and paper.

Retrievability: Social security number, claim number and name.

Safeguards: Magnetic tape and magnetic disk: computer and computer storage rooms are restricted to authorized personnel; on-line query safeguards include a lock/unlock password system, a terminal oriented transaction matrix and an audit trail. Paper: bound in hard covers and stored on steel shelving accessible to only authorized personnel.

Retention and disposal: Magnetic tape and magnetic disk: permanent retention; updated annually. Paper: retained five years and destroyed last year ledger put in storage when current year ledger complete.

System manager(s) and address: Director of Data Processing and Accounts, U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

Notification procedure: Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name and social security number. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

Record access procedures: See Notification section above.

Contesting record procedures: See Notification section above.

Record source categories: Railroad employer.

System name: Social Security Administration Summary Earnings File—RRB.

System location: U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

Categories of individuals covered by the system: Railroad employees and their auxiliary beneficiaries.

Categories of records in the system: Social security account number, name, date of birth, sex, social security claim status, creditable earnings from 1937 to date.

Authority for maintenance of the system: Section 7(b)(6) of the Railroad Retirement Act of 1974 (45 U.S.C. 231(b)(6)).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Internal use only.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape and magnetic disk.

Retrievability: Social security account number and name.

Safeguards: Magnetic tape and magnetic disk: computer and computer storage rooms are restricted to authorized personnel; on-line query safeguards include a lock/unlock password system; a terminal oriented transaction matrix; and an audit trail.

Retention and disposal: Magnetic tape and magnetic disk: permanent retention; updated annually.

System manager(s) and address: Director of Data Processing and Accounts, U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

Notification procedure: Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name, social security account number and claim number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

Record access procedures: See Notification section above.

Contesting record procedures: See Notification section above.

Record source categories: Social Security Administration.

System name: Railroad Retirement, Survivor, and Pensioner Benefit System—R.R.B.

System location: U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611. Regional and District Offices: See Appendix I for address.

Categories of individuals covered by the system: Applicants for retirement and survivor benefits, their dependents (spouses, children, parents, grandchildren), individuals who filed for lump sum death benefits and/or residual payments.

Categories of records in the system: Information pertaining to the payment or denial of an individual's claim for benefits under the Railroad Retirement Act: name, address, social security number, claim number, proofs of age, marriage, relationship, and military service, creditable earnings and service months (including military service), entitlement to benefits under the Social Security Act. Veterans Administration or other benefit systems, rates, effective dates, medical reports, correspondence and telephone inquiries to and about the beneficiary, record of determination and appeal by beneficiary, suspension and termination dates, health insurance effective date, option, premium rate and deduction, direct deposit data and employer pension information.

Authority for maintenance of the system: Section 7(b)(6) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(6)).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: a. Beneficiary identifying information may be disclosed to third party contacts to determine if incapacity of the beneficiary or potential beneficiary to understand or use benefits exists, and to determine the suitability of a proposed representative payee.

b. In the event the Board has determined to designate a person to be the represenative payee of an incompetent beneficiary, disclosure of information concerning the benefit amount and other similar information may be made to the representative payee from the record of the individual.

c. Entitlement and benefit rates may be released to primary beneficiaries regarding secondary beneficiaries (or vice versa) when the addition of such beneficiary affects either the entitlement or benefit payment.

d. Identifying information such as full name, address, date of birth, social security number, employee identification number, and date last worked, may be released to any last employer to verify entitlement for benefits under the Railroad Retirement Act.

e. Beneficiary identifying information, address, check rate, number and date may be released to the Treasury Department to control for reclamation and return of outstanding benefit checks, to issue benefit checks, to reconcile reports of non-delivery, and to insure delivery of check to the correct address of the beneficiary or representative payee.

f. Beneficiary identifying information, address, check rate, date, number and other supporting evidence may be released to the U.S. Postal Service for investigation of alleged forgery or theft of railroad retirement or social security benefit checks.

g. Beneficiary identifying information, entitlement data, medical evidence and related evaluatory data, and benefit rate may be released to the Social Security Administration and the Health Care Financing Administration to correlate actions with the administration of Title II and Title XVIII of the Social Security Act, as amended.

h. Beneficiary identifying information, including social security account number, and supplemental annuity amounts may be released to the Internal Revenue Service, State and local taxing authorities for tax purposes (Form G-1099, for those annuitants receiving supplemental annuities).

i. Beneficiary identifying information, entitlement, benefit rates, medical evidence and related evaluatory data and months paid may be released to the Veterans Administration to verify continued entitlement to benefits.

j. Beneficiary identifying information, entitlement data and benefit rates may be released to the Department of State and embassy officials to aid in the development of applications, supporting evidence

and the continued eligibility of beneficiaries and potential beneficiaries living abroad.

k. Beneficiary identifying information, entitlement, benefit rates and months paid may be released to the Social Security Administration. Bureau of Supplemental Security Income, Health Care Financing Administration, to Federal, State and local welfare or public aid agencies to assist them in processing applications for benefits under their respective programs.

l. The last addresses and employer information may be released to the Department of Health, Education, and Welfare in conjunction with the Parent Locator Service.

m. Beneficiary identifying information, entitlement, rate and other pertinent data may be released to the Department of Labor in conjunction with payment of benefits under the Federal Coal Mine and Safety Act.

n. Beneficiary identifying information and medical evidence may be released to State or local agencies required by State or local law to be informed of the existence of a legally reportable medical condition, when discovered in connection with an application for a disability annuity.

o. Medical evidence may be released to Board-appointed medical examiners to carry out their functions.

p. Information obtained in the administration of Title XVIII (Medicare) which may indicate unethical or unprofessional conduct of a physician or practitioner providing services to beneficiaries may be released to Professional Standards Review Organizations and State Licensing Boards.

q. Information necessary to study the relationship between benefits paid by the Railroad Retirement Board and civil service annuities may be released to the Civil Service Commission.

r. Records may be disclosed to the General Accounting Office for auditing purposes and for collection of debts arising from overpayments under Title II and Title XVIII of the Social Security Act, as amended, or the Railroad Retirement Act.

s. Records may be released to contractors to fulfill contract requirements pertaining to specific activities related to the Railroad Retirement Act.

t. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

u. Pursuant to a request from an employer covered by the Railroad Retirement Act or the Railroad Unemployment Insurance Act, information regarding the Board's payment of retirement benefits, the methods by which such benefits are calculated, entitlement data and present address may be released to the requesting employer for the purposes of determining entitlement to and rates of private supplemental pension, sickness or unemployment benefits and to calculate estimated benefits due.

v. If a request for information pertaining to an individual is made by an official of a labor organization of which the individual is a member and the request is made on behalf of the individual, information from the record of the individual concerning his benefit or anticipated benefit and concerning the method of calculating that benefit may be disclosed to the labor organization official.

w. Records may be disclosed in a court proceeding relating to any claims for benefits by the beneficiary under the Railroad Retirement Act, and may be disclosed during the course of an administrative appeal hearing in which such records are relevant to the issue.

x. In the event that this system of records, maintained by the Railroad Retirement Board to carry out its functions, indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in this system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

y. Information in this system of records may be released to the attorney representing such individual in connection with the individual's claim for benefits under the Railroad Retirement Act, upon receipt of a written letter or declaration stating the fact of representation, subject to the same procedures and regulatory prohibitions as the subject individual.

z. The amount of a residual lump sum payment and the identity of the payee may be released to the Internal Revenue Service for tax audit purposes.

aa. The amount of any death benefit or annuities accrued but unpaid at death and the identity of such payee may be released to the appropriate state taxing authorities for tax assessment and auditing purposes.

bb. Beneficiary identifying information, including but not limited to name, address, social security account number, payroll number and occupation, the fact of entitlement and benefit rate may be released to the Pension Benefit Guaranty Corporation to enable that agency to determine and pay supplemental pensions to qualified railroad retirees.

cc. Medical records may be disclosed to vocational consultants in administrative proceedings.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper, microforms, magnetic tape and magnetic disk.

Retrievability: Claim number, social security number and full name.

Safeguards: Paper and microforms: maintained in areas not accessible to the public, offices are locked during non-business hours. Magnetic tape and magnetic disk: computer and computer storage rooms are restricted to authorized personnel; on-line query safeguards include a lock/unlock password system, a terminal oriented transaction matrix and an audit trail.

Retention and disposal: Paper, individual claim folders with records of all actions pertaining to the payment or denial of claims are shredded 25 years after the date of last payment or denial activity, other paper listings are destroyed one year after date of issue, except for accounts receivable listings which are destroyed only after General Accounting Office audit. Microforms: originals are kept for five years, duplicates are kept for one year and then destroyed by shredding. Magnetic tape: magnetic tape records are used to daily update the disk files and then are retained for 90 days and then written over. Magnetic disk: continually updated and permanently retained.

System manager(s) and address: Director of Retirement Claims, U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

Notification procedure: Requests for information regarding an individual's records should be in writing addressed to the System Manager identified above, including the full name and social security number and claim number of the individual. Before information about any records will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish and authorization from the individual to permit release of information.

Record access procedures: See Notification section above.

Contesting record procedures: See Notification section above.

Record source categories: Individual applicants or their representatives, railroad employers, other employers, physicians, labor organizations, federal, state and local government agencies, attorneys, funeral homes, congressmen, schools, foreign governments.

System name: Unemployment Insurance Record File—RRB

System location: District Offices: See Appendix I for addresses.

Categories of individuals covered by the system: Claimants for unemployment benefits under the Railroad Unemployment Insurance Act and their respective employers.

Categories of records in the system: Developent file containing letters from claimants, report of Railroad Unemployment Insurance Act fraud investigations and supporting evidence, erroneous payment investigations, protest and appeal requests and responses.

Authority for maintenance of the system: Section 12(1) of the Railroad Unemployment Insurance Act (45 U.S.C. 362(1))

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: a. Beneficiary identifying information may be released to third party contacts to determine if incapacity of the beneficiary or potential beneficiary to understand or use benefits exists, and to determine the suitability of a proposed representative payee.

b. Benefit rate, name and address may be referred to the Treasury Department to control for reclamation and return of outstanding benefit checks, to issue benefit checks, reconcile reports of nondelivery, and to insure delivery of check to the correct address of the beneficiary or representative payee.

c. Beneficiary's name, address, check rate, date and number, plus supporting evidence may be released to the U.S. Postal Service for investigation of alleged forgery or theft of railroad unemployment or sickness benefit checks.

d. Identifying information such as full name, address, date of birth, social security number, employee identification number, and date last worked, may be released to any last employer to verify entitlement for benefits under the Railroad Unemployment Insurance Act.

e. Pursuant to a request from an employer covered by the Railroad Retirement Act or the Railroad Unemployment Insurance Act, infor-

mation regarding the Board's payment of unemployment or sickness benefits, the methods by which such benefits are calculated, entitlement data and present address may be released to the requesting employer for the purposes of determining entitlement to and rates of private supplemental pension, sickness or unemployment benefits and to calculate estimated benefits due.

f. Benefit rates and effective dates may be released to the Social Security Administration, Bureau of Supplemental Security Income, to Federal, State and local welfare or public aid agencies to assist them in processing applications for benefits under their respective programs.

g. In the event the Board has determined to designate a person to be the representative payee of an incompetent beneficiary, disclosure of information concerning the benefit amount and other similar information may be made to the representative payee from the record of the individual.

h. Records may be disclosed to the General Accounting Office for auditing purposes and for collection of debts arising from overpayments under the Railroad Unemployment Insurance Act, as amended.

i. The last addresses and employer information may be disclosed to the Department of Health, Education, and Welfare in conjunction with the Parent Locator Service.

j. Disclosure may be made to a congressional office from the record of the individual in response to an inquiry from the congressional office made at the request of that individual.

k. If a request for information pertaining to an individual is made by an official of a labor organization of which the individual is a member and the request is made on behalf of the individual, information from the record of the individual concerning this benefit or anticipated benefit may be disclosed to the labor organization official.

l. Records may be disclosed in a court proceeding relating to any claims for benefits by the beneficiary under the Railroad Unemployment Insurance Act and may be disclosed during the course of an administrative appeal bearing in which such records are relevant to the issue.

m. In the event that this system of records, maintained by the Railroad Retirement Board to carry out its functions, indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in this system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

n. Non-medical information in this system of records may be released to the attorney representing such individual upon receipt of a written letter or declaration stating the fact of representation, subject to the same procedures and regulatory prohibitions as the subject individual. Medical information may be released to an attorney when such records are requested for the purpose of contesting a determination either administratively or judicially.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper.

Retrievability: Name, social security number.

Safeguards: Kept in steel file cabinets away from the general public and are available only to district office and regional office personnel.

Retention and disposal: Shredded five years after end of benefit year in which originated.

System manager(s) and address:

Director of Unemployment and Sickness Insurance
U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Notification procedure: Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name and social security number and claim number of the individual. Before information about any record will be released, the System manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

Record access procedures: See Notification section above.

Contesting record procedures: See Notification section above.

Record source categories: Individual claimant or his authorized representative, employers, State employment and unemployment claims records, Federal, and Social Security Administration employer compensation reports.

System name: Applications for Unemployment Benefits and Placement Service under the Railroad Unemployment Insurance Act—RRB.

System location: District Offices: See Appendix I for addresses.

Categories of individuals covered by the system: Individuals who have made application for unemployment benefits and employment service.

Categories of records in the system: Name, address, account number, age, sex, education, height, weight, veteran status, employer, occupation, rate of pay, reason not working and last date worked, personal interview record, results of investigations.

Authority for maintenance of the system: Section 12(1) of the Railroad Unemployment Insurance Act (45 U.S.C. 362(1)).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: a. Selected information may be disclosed to prospective employers for potential job placement.

b. In the event the Board has determined to designate a person to be the representative payee of an incompetent beneficiary, disclosure of information concerning the benefit amount and other similar information may be made to the representative payee from the record of the individual.

c. Beneficiary identification and entitlement information may be released to third party contacts to determine if incapacity of the beneficiary or potential beneficiary to understand or use benefits exists, and to determine the suitability of a proposed representative payee.

d. A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring, or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

e. Beneficiary identification, entitlement, and benefit rate information may be released to the Treasury Department to control for reclamation and return of outstanding benefit checks, to issue benefit checks, reconcile reports of nondelivery and to insure delivery of check to the correct address of the beneficiary or representative payee.

f. Information may be referred to the U.S. Postal Service for investigation of alleged forgery or theft of railroad unemployment or sickness benefit checks.

g. Beneficiary identification, entitlement, and benefit rate information may be released to the Social Security Administration, Bureau of Supplemental Security Income, to Federal, State, and local welfare or public aid agencies to assist them in processing applications for benefits under their respective programs.

h. The last addresses and employer information may be disclosed to Department of Health, Education, and Welfare in conjunction with the Parent Locator Service.

i. Information may be released to contractors to fulfill contract requirements pertaining to specific activities related to the Railroad Unemployment Insurance Act.

j. Records may be disclosed to the General Accounting Office for auditing purposes and for collection of debts arising from overpayments under the Railroad Unemployment Insurance Act, as amended.

k. Identifying information such as full name, address, date of birth, social security number, employee identification number, and date last worked, may be released to any last employer to verify entitlement for benefits under the Railroad Unemployment Insurance Act.

l. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

m. Pursuant to a request from an employer covered by the Railroad Retirement Act or the Railroad Unemployment Insurance Act, information regarding the Board's payment of unemployment or sickness benefits, the methods by which such benefits are calculated, entitlement data and present address will be released to the requesting employer for the purposes of determining entitlement to and rates of private supplemental pension, sickness or unemployment benefits and to calculate estimated benefits due.

n. If a request for information pertaining to an individual is made by an official of a labor organization of which the individual is a member and the request is made on behalf of the individual, information from the record of the individual concerning his benefit or

anticipated benefit and concerning the method of calculating that benefit may be disclosed to the labor organization official.

o. Records may be disclosed in a court proceeding relating to any claims for benefits by the beneficiary under the Railroad Unemployment Insurance Act and may be disclosed during the course of an administrative appeal hearing in which such records are relevant to the issue.

p. In the event that this system of records, maintained by the Railroad Retirement Board to carry out its functions, indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in this system may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

q. Non-medical information in this system of records may be released to the attorney representing such individual upon receipt of a written letter or declaration stating the fact of representation, subject to the same procedures and regulatory prohibitions as the subject individual. Medical information may be released to an attorney when such records are requested for the purpose of contesting a determination either administratively or judicially.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper.

Retrievability: Social security number.

Safeguards: Only authorized personnel have access to the records; offices locked during nonbusiness hours.

Retention and disposal: In routine cases, held for three years after end of benefit year in which orginated. In those with adverse activities (claims denied), held for five years after end of benefit year in which originated. At end of both periods, files are shredded.

System manager(s) and address:

Director of Unemployment and Sickness Insurance
U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Notification procedure: Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name and social security number and claim number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

Record access procedures: See Notification section above.

Contesting record procedures: See Notification section above.

Record source categories: Individual applicant or his authorized representative, present and former employers, State and Federal departments of employment security, Social Security Administration and labor organizations.

System name: Protest and Appeals under the Railroad Unemployment Insurance Act—RRB.

System location: Regional Offices: See Appendix I for addresses.

Categories of individuals covered by the system: Railroad Employees.

Categories of records in the system: Name, address, social security number, employment data, record of investigation on adverse action.

Authority for maintenance of the system: Section 12(1) of the Railroad Unemployment Insurance Act (45 U.S.C. 362(1))

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: a. In the event the Board has determined to designate a person to be the representative payee of an incompetent beneficiary, disclosure of information concerning the benefit amount and other similar information may be made to the representative payee from the record of the individual.

b. Identifying information such as full name, address, date of birth, social security number, employee identification number, and date last worked, may be released to any last employer to verify entitlement for benefits under the Railroad Unemployment Insurance Act.

c. Beneficiary identification, entitlement and benefit rates may be released to the Social Security Administration, Bureau of Supplemental Security Income, to Federal, State and local welfare or public aid agencies to assist them in processing applications for benefits under their respective programs.

d. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

e. Pursuant to a request from an employer covered by the Railroad Unemployment Insurance Act, information regarding the Board's payment of unemployment or sickness benefits, the methods by which such benefits are calculated, entitlement data and present address may be released to the requesting employer for the purposes of determining entitlement to and rates of private supplemental pension, sickness or unemployment benefits and to calculate estimated benefits due.

f. If a request for information pertaining to an individual is made by an official of a labor organization of the individual concerning his benefit or anticipated benefit may be disclosed to the labor organization official.

g. Records may be disclosed in a court proceeding relating to any claims for benefits by the beneficiary under the Railroad Unemployment Insurance Act and may be disclosed during the course of an administrative appeal hearing in which such records are relevant to the issue.

h. In the event that this system of records, maintained by the Railroad Retirement Board to carry out its functions, indicates a violation or potential violation of law, whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in this system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

i. Non-medical information in this system of records may be released to the attorney representing such individual upon receipt of a written letter or declaration stating the fact of representation, subject to the same procedures and regulatory prohibitions as the subject individual. Medical information may be released to an attorney when such records are requested for the purpose of contesting a determination either administratively or judicially.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper.

Retrievability: Name, social security number.

Safeguards: Only authorized personnel have access to these records which are kept in an office that is locked at the close of business each day and remains so until start of business the next day.

Retention and disposal: Destroyed by shredding no later than five years after the end of the fiscal year in which originated.

System manager(s) and address:

Director of Unemployment and Sickness Insurance
U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611.

Notification procedure: Requests for information regarding an individual's record should be in writing, addressed to the System Manager identified above, including the full name and social security number and claim number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information

Record access procedures: See Notification section above.

Contesting record procedures: See Notification section above.

Record source categories: Employee, employer and district office records.

System name: Railroad Unemployment and Sickness Insurance Benefit System—RRB.

System location:

U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611 Regional and District Offices: See Appendix I for addresses.

Categories of individuals covered by the system: Applicants and claimants for unemployment and sickness (including maternity) benefits under the Railroad Unemployment Insurance Act: some railroad employees injured at work who did not apply for Railroad Unem-

ployment Insurance Act benefits; all railroad employees paid separation allowances.

Categories of records in the system: Information pertaining to payment or denial of an individual's claim for benefits under the Railroad Unemployment Insurance Act: name, address, sex, social security number, date of birth, total months of railroad service (including creditable military service), total creditable compensation for base year, last employer and date last worked before applying for benefits, last rate of pay in base year, reason not working, applications and claims filed, benefit payment information for each claim filed, disqualification periods and reasons for disqualification, entitlement to benefits under other laws, benefit recovery information about personal injury claims and pay for time not worked, medical reports, placement data, correspondence and telephone inquiries to and about the claimant, record of protest or appeal by claimant of adverse determinations made on his claims.

Authority for maintenance of the system: Section 12(l) of the Railroad Unemployment Insurance Act (45 U.S.C. 351, et. seq.).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: a. Beneficiary identifying information may be disclosed to third party contacts to determine if incapacity of the beneficiary or potential beneficiary to understand or use benefits exists, and to determine the suitability of a proposed representative payee.

b. In the event the Board has determined to designate a person to be the representative payee of an incompetent beneficiary, disclosure of information concerning the benefit amount and other similar information may be made to the representative payee from the record of the individual.

c. Beneficiary identifying information, address, check rate, date and number may be released to the Treasury Department to control for reclamation and return of outstanding benefit checks, to issue benefit checks, respond to reports of non-delivery and to insure delivery of check to the correct address of the beneficiary or representative payee.

d. Beneficiary identifying information, address, check rate, date and number, plus other necessary supporting evidence may be released to the U.S. Postal Service for investigation of alleged forgery or theft of railroad unemployment/sickness benefit checks.

e. A record from this system of records may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

f. Under Section 2(f), the Railroad Retirement Board has the right to recover benefits paid to an employee who later receives remuneration for the same period, therefore, the Railroad Retirement Board may notify the person or company paying the remuneration of the Board's right to recovery and the amount of benefits to be refunded.

g. Under Section 12(o), the Railroad Retirement Board is entitled to reimbursement of sickness benefits paid on account of the infirmity for which damages are paid, consequently, the Railroad Retirement Board may send a notice of lien to the liable party, and, upon request by the liable party, advise the amount of benefits subject to reimbursement.

h. Records may be disclosed to contractors to fulfill contract requirements pertaining to specific activities related to the Railroad Unemployment Insurance Act.

i. Beneficiary identifying information, rate and entitlement data may be released to the Social Security Administration to correlate actions with the administration of the Social Security Act.

j. The last addresses and employer information may be released to Department of Health, Education, and Welfare in conjuction with the Parent Locator Service.

k. Benefit rate, entitlement and periods paid may be disclosed to the Social Security Administration, Bureau of Supplemental Security Income to federal, state and local welfare or public aid agencies to assist them in processing applications for benefits under their respective programs.

l. Beneficiary identifying information, entitlement, rate and other pertinent data may be released to the Department of Labor in conjunction with payment of benefits under the Federal Coal Mine and Safety Act.

m. Beneficiary identifying information and medical evidence may be released to State or local agencies required by State or local law to be informed of the existence of a legally reportable medical condition, when discovered in conntection with an application for disability or sickness benefits.

n. Records may be referred to the General Accounting Office for auditing purposes and for collection of debts arising from overpayments under the Railroad Unemployment Insurance Act.

o. If a request for information pertaining to an individual is made by an official of a labor organization, of which the individual is a member, information from the record of the individual concerning his benefit or anticipated benefit and concerning the method of calculating that benefit may be disclosed to the labor organization official.

p. Pursuant to a request from an employer covered by the Railroad Retirement Act or the Railroad Unemployment Insurance Act, information regarding the Board's payment of unemployment or sickness benefits, the methods by which such benefits are calculated, entitlement data and present address may be released to the requesting employer for the purposes of determining entitlement to and rates of private supplemental pension, sickness or unemployment benefits and to calculate estimated benefits due.

q. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

r. Records may be disclosed in a court proceeding relating to any claims for benefits by the beneficiary under the Railroad Unemployment Insurance Act and may be disclosed during the course of an administrative appeal hearing in which such records are relevant to the issue.

s. In the event that this system of records, maintained by the Railroad Retirement Board to carry out its function, indicates a violation, or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in this system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

t. Non-medical information in this system of records may be released to the attorney representing such individual upon receipt of a written letter or declaration stating the fact of representation, subject to the same procedures and regulatory prohibitions as the subject individual. Medical information may be released to an attorney when such records are requested for the purpose of contesting a determination either administratively or judicially.

u. Beneficiary identifying information, entitlement data, benefit rates and periods paid may be released to the Veterans Administration to verify continued entitlement to benefits.

v. Identifying information such as full name, social security number, employee identification number, date last worked, occupation, and location last worked may be released to any last employer to verify entitlement for benefits under the railroad Unemployment Insurance Act.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper, magnetic tape and microforms.

Retrievability: Social Security number (claim number) and name.

Safeguards: Records are maintained in areas not accessible to the public and are not permitted to be removed from headquarters without authorization.

Retention and disposal: Paper-transferred to the Chicago Federal Records Center one year after the end of the benefit year during which the case was closed. Destroyed by the General Services Administration five years after the end of the benefit year. In appeal cases, retention is permanent. In benefit recovery cases, the file is transfered to the Federal Records Center if there has been no recent activity; the file is not destroyed until five years after recovery has been completed. Magnetic tape-destroyed ten years after the end of the benefit year. Microforms-destroyed ten years after the end of the benefit year.

System manager(s) and address:

Director of Unemployment and Sickness Insurance
U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Notification procedure: Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name and social security number and claim number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to

furnish an authorization from the individual to permit release of information.

Record access procedures: See Notification section above.

Contesting record procedures: See Notification section above.

Record source categories: Applicant, claimant or his representative, physicians, employers, unemployment claims agents, labor organizations, Federal, State, and local government agencies, all Railroad Retirement Board files, insurance companies, attorneys, congressmen, liable parties (in personal injury cases), funeral homes and survivors (for payment of death benefits).

System name: Payroll Record System—RRB.

System location:

U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Categories of individuals covered by the system: Railroad Retirement Board employees.

Categories of records in the system: Time, leave, and payroll information.

Authority for maintenance of the system: Pay Acts as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: a. Salary and tax information may be disclosed to Internal Revenue Service. State and city taxing authorities for tax purposes.

b. Service history including pay, benefits, salary deductions for retirement, and other information necessary may be disclosed to Civil Service Commission for use in computation of civil service annuities and to carry out its Government-wide personnel management functions.

c. Computer check issue tapes may be released to the Department of Treasury for issuance of salary checks.

d. Identification information, check number, data and amount, plus other supporting evidence may be forwarded to the U.S. Postal Service for investigation of alleged forgery or theft of salary checks.

e. The last addresses and employer information may be released to Department of Health, Education, and Welfare in conjunction with the Parent Locator Service.

f. Records may be disclosed to the General Accounting Office for auditing purposes.

g. In the event that this system of records, maintained by the Railroad Retirement Board to carry out its functions, indicates a violation or potential violation of law, whether civil, crinimal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in this system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

h. A copy of the employee's Form W-2, Wage and Tax Statement, or other similar form containing the name, social security number taxable earnings and amounts withheld, may be released to the State, city or other local jurisdiction which is authorized to tax the employee's compensation in accordance with a withholding agreement between the State, city or other local jurisdiction and the Department of the Treasury, or in absence thereof, in response to a written request from an appropriate official of the taxing jurisdiction to the Director of Budget and Fiscal Operations, U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper, tape and microfilm.

Retrievability: Social security number and name.

Safeguards: Housed in secured building and maintained in areas not accessible to the public; information released only at employee's request or to approved Federal and local authorities.

Retention and disposal: Consolidated pay tapes, first two master tapes, and last two master tapes for each year: Destroy record three years after close of calendar year in which prepared by erasing tape. Security record—current check issue tape. Dispose when National Personnel Records Center receives second subsequent document covering same type of payment. Paper: destroyed after four years. Microfilm: retained until replaced by a new record, usually within one year.

System manager(s) and address:

Director of Budget and Fiscal Operations
U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Notification procedure: Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name and social security number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

Record access procedures: See Notification section above.

Contesting record procedures: See Notification section above.

Record source categories: Railroad Retirement Board employees personnel action, time and attendance reports, deduction authorizations.

System name: Health Insurance and Supplementary Medical Insurance Enrollment and Premium Payment System (MEDICARE)—RRB.

System location:

U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611 District and Regional Offices—See Appendix I for addresses.

Categories of individuals covered by the system: Qualified Railroad Retirement beneficiaries who are eligible for medicare coverage, attending physicians, chiropractors and physicial therapists.

Categories of records in the system: Claim number, social security number, name, address, type of beneficiary under the Railroad Retirement Act, date of birth, method of Supplementary Medical Insurance premium payment, enrollment status, amount of premium, paid-thru date, third party premium payment information, coverage jurisdiction determination, direct premium billing and premium refund accounting, correspondence from beneficiaries, physicians suspected of overutilization and those suspended from payment by Medicare.

Authority for maintenance of the system: Section 7(d) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(d)).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

a. Beneficiary identification, enrollment status and premium deductions information may be released to the Social Security Administration and the Health Care Financing Administration to correlate actions with the administration of Title II and Title XVIII (MEDICARE) of the Social Security Act.

b. Beneficiary identification may be disclosed to third party contacts to determine if incapacity of the beneficiary or potential beneficiary to understand or use benefits exists, and to determine the suitability of a proposed representative payee.

c. In the event the Board has determined to designate a person to be the representative payee of an incompetent beneficiary, disclosure of information concerning the benefit amount and other similar information may be made from the record of the individual to the representative payee.

d. Data may be disclosed to Department of Health, Education, and Welfare for reimbursement for work done under reimbursement provisions of Title XVIII of the Social Security Act, as amended.

e. Jurisdictional clearance, premium rate, coverage election, paid-thru date, and amounts of payments in arrears may be released to the Social Security Administration and the Health Care Financing Administration to assist that agency in administering Title XVIII of the Social Security Act.

f. Beneficiary identification, premium rate and paid-thru date may be released to effect state buy-in and third party premium payments.

g. Payment data may be disclosed to consultants to determine reasonable charges for hospital insurance payments in Canada.

h. Entitlement data may be disclosed to primary beneficiaries regarding secondary beneficiaries (or vice versa) when the addition of such beneficiary affects entitlement.

i. Records may be released to contractors to fulfill contract requirements pertaining to specific activities related to the Railroad Retirement Act and Social Security Act, as amended.

j. The last addresses information may be disclosed to Department of Health, Education, and Welfare in conjunction with the Parent Locator Service.

k. Beneficiary identification, entitlement data and rate information may be referred to the Department of State and embassy officials to aid in the development of applications, supporting evidence and the continued eligibility of beneficiaries and potential beneficiaries living abroad.

l. Records may be released to the General Accounting Office for auditing purposes and for collection of debts arising from overpayments under Title XVIII of the Social Security Act, as amended.

m. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

n. Pursuant to a request from an employer covered by the Railroad Retirement Act or the Railroad Unemployment Insurance Act, information regarding the Board's determination of medicare entitlement, entitlement data and present address may be released to the requesting employer for the purposes of determining entitlement to and rates of supplemental benefits payable under private employer welfare benefit plans.

o. If a request for information pertaining to an individual is made by an official of a labor organization of which the individual is a member and the request is made on behalf of the individual, information from the record of the individual concerning his entitlement to medicare may be disclosed to the labor organization official.

p. Records may be disclosed in a court proceeding relating to any claims for benefits by the beneficiary under the Railroad Retirement Act, or Social Security Act and may be disclosed during the course of an administrative appeal hearing which such records are relevant to the issue.

q. In the event that this system of records, maintained by the Railroad Retirement Board to carry out its functions, indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arsing by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in this system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

r. Information in this system of records may be released to the attorney representing such individual in connection with the individual's claim for benefits under the Railroad Retirement Act and Title XVIII of the Social Security Act, as amended, upon receipt of a written letter or declaration stating the fact of representation, subject to the same procedures and regulatory prohibitions as the subject individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper, magnetic tape and microfilm.

Retrievability: Claim number, social security number, full name.

Safeguards: Records are maintained in areas not accessible by the public and are not permitted to be removed from headquarters without authorization.

Retention and disposal: Paper: Computer printouts are retained for three months, then shredded; applications materials in individual claim folders with records of all actions pertaining to the payment or denial of claims are shredded 25 years after the date of last payment or denial activity. Magnetic tape: Updated weekly; obsolete tape written over. Microfilm: Retained for 18 months then shredded.

System manager(s) and address:

Director of Retirement Claims
U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Notification procedure: Requests for information regarding an individual's records should be in writing addressed to the system Manager identified above, including the full name and social security number and claim number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

Record access procedures: See Notification section above.

Contesting record procedures: See Notification section above.

Record source categories: Applicant (the qualified railroad beneficiary), his/her representative, Social Security Administration. Health care financing Administration, The Travelers Insurance Company, federal, state or local agencies, third party premium payers, all other Railroad Retirement Board files, physicians.

System name: Federal Employee Incentive Awards System—RRB.

System location:

U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Categories of individuals covered by the system: Railroad Retirement Board employees who have submitted suggestions or have been nominated for awards.

Categories of records in the system: Employee suggestions, special achievement awards, quality increase awards, public service awards, government-sponsored awards.

Authority for maintenance of the system: Chapter 45, Title 5, U.S. Code.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: a. Information may be released to the public media for public relations purposes.

b. Records may be disclosed to the General Accounting Office for auditing purposes.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper.

Retrievability: System indexed by number assigned when suggestion or nomination is received. Suggestions are cross-referenced by name of suggester and subject of suggestion.

Safeguards: Only authorized staff has access to the files.

Retention and disposal: Denied suggestions are purged and destroyed 5 years after denial date. Adopted suggestions are retained permanently as are all special achievement and quality increase recommendations.

System manager(s) and address:

Chairman, Incentive Awards Committee
U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Notification procedure: Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name and social security number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

Record access procedures: See Notification section above.

Contesting record procedures: See Notification section above.

Record source categories: Suggestion or award submitted by suggester or nominator. Suggestions submitted by employees; recommendations for award submitted by supervisory personnel.

System name: Social Security Benefit Vouchering System—RRB.

System location: U.S. Railroad Retirement Board.

844 Rush Street
Chicago, Illinois 60611

Categories of individuals covered by the system: Applicants after December 31, 1974, for benefits under Title II of the Social Security Act who have completed ten years of creditable service in the railroad industry, the spouse or survivor of such an individual.

Categories of records in the system: Name, address, social security number, type and amount of benefit, suspension and termination information.

Authority for maintenance of the system: Section 7(b)(2) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(2))

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: a. Benefit rate information may be disclosed to primary beneficiaries regarding secondary beneficiaries (or vice versa) when the addition of such beneficiary affects either the entitlement or benefit payment.

b. In the event the Board has determined to designate a person to be the representative payee of an incompetent beneficiary, disclosure of information concerning the benefit amount and other similar information may be made to the representative payee from the record of the individual.

c. Benefit rates, names and addresses may be released to the Treasury Department to control for reclamation and return of outstanding benefit checks, to issue benefit checks, act on reports of non-delivery, and to insure delivery of check to the correct address of the beneficiary or representative payee.

d. Beneficiary's name, address, check rate and date plus supporting evidence may be released to the U.S. Postal Service for investigation

of alleged forgery or theft of railroad retirement or social security benefit checks.

e. Beneficiary's name, effective date, benefit rate and months paid may be disclosed to the Veterans Administration to verify continued entitlement to benefits.

f. Benefit rates and effective dates may be disclosed to the Social Security Administration, Bureau of Supplemental Security Income, to Federal, State and local welfare or public aid agencies to assist them in processing applications for benefits under their respective programs.

g. Last addresses information may be disclosed to the Department of Health, Education, and Welfare in conjunction with the Parent Locator Service.

h. Benefit rates, entitlement and other necessary information may be released to the Department of Labor in conjunction with payment of benefits under the Federal Coal Mine and Safety Act.

i. Pursuant to a request from an employer covered by the Railroad Retirement Act or the Railroad Unemployment Insurance Act, information regarding the Board's payment of benefits, the methods by which such benefits are calculated, entitlement data and present address may be released to the requesting employer for the purposes of determining entitlement to and the rates of private, supplemental pension benefits and to calculate estimated benefits due.

j. If a request for information pertaining to an individual is made by an official of a labor organization of which the individual is a member and the request is made on behalf of the individual, information from the record of the individual concerning his benefit or anticipated benefit and concerning the method of calculating that benefit may be disclosed to the labor organization official.

k. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

l. Information may be released to contractors to fulfill contract requirements pertaining to specific activities related to the Railroad Retirement Act.

m. Records may be disclosed to the General Accounting Office for auditing purposes and for collection of debts arising from overpayments under Title II of the Social Security Act, as amended.

n. Records may be disclosed in a court proceeding relating to any claims for benefits by the beneficiary under the Railroad Retirement Act and may be disclosed during the course of an administrative appeal hearing in which such records are relevant to the issue.

o. In the event that this system of records, maintained by the Railroad Retirement Board to carry out its functions, indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in this system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

p. Information in this system of records may be released to the attorney representing an individual in connection with that individual's claim for benefits under the Railroad Retirement Act or Title II of the Social Security Act, as amended, upon receipt of a written letter or declaration stating the fact of representation, subject to the same procedures and regulatory prohibitions as the subject individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper, magnetic tape and microforms.

Retrievability: Social security account number, full name.

Safeguards: Paper and microforms: maintained in areas not accessible to the public, offices are locked during non-business hours. Magnetic tape: computer and computer storage rooms are restricted to authorized personnel.

Retention and disposal: Paper: Individual claim folders with records of all actions pertaining to the payment of claims are shredded 25 years after the date of last payment or denial activity. Other paper listings are destroyed one year after date of issue, except for accounts receivable listings which are destroyed only after General Accounting Office audit. Magnetic tape: Tapes are updated at least monthly, writing over obsolete data. Microforms: Originals are kept for five years; duplicates for one year: destroyed by shredding.

System manager(s) and address:

Director of Retirement Claims
U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Notification procedure: Requests for information regarding an individual's records should be in writing addressed to the System Manager identified above, including full name and social security number of the individual. Before any information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

Record access procedures: See Notidication section above.

Contesting record procedures: See Notification section above.

Record source categories: Individual applicant or his or her authorized representative, the Social Security Administration, other record systems maintained by the Railroad Retirement Board.s

System name: MEDICARE: Part B (Supplementary Medical Insurance) Payment System—Contracted to The Travelers Insurance Company—RRB.

System location:

Main Office: The Travelers Insurance Company
One Tower Square
Hartford, Connecticut 06115
Regional Offices: See Appendix II for addresses.

Categories of individuals covered by the system: Qualified railroad retirement beneficiaries covered by MEDICARE, Part B, who file claims under the medical insurance program.

Categories of records in the system: Name, health insurance claim number, address, telephone number, description of illness and treatment pertaining to claim, indication of other health insurance or medical assistance pertinent to claim, date(s) and place(s) of physician service, description of medical procedures, services, or supplies furnished, nature of illness(es), medical charges name, address and telephone of physician, Part B entitlement date, Part B deductible status.

Authority for maintenance of the system: Section 7(d) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(d)).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

a. In the event the Board has determined to designate a person to be the representative payee of an incompetent beneficiary, disclosure of information concerning the benefit amount and other similar information may be made to the representative payee from the record of the individual.

b. Information regarding payments and deductibles may be released to the Social Security Administration for use in administering title XVIII of the Social Security Act, as amended, and to establish, audit, and maintain account and vouchering records.

c. Records may be disclosed in a court proceeding relating to any claims for benefits under Title XVIII of the Social Security Act, as amended and may be disclosed during the course of an appeal hearing.

d. Records may be disclosed to the General Accounting Office for auditing purposes and for collection of debts arising from overpayments under Title XVIII of the Social Security Act.

e. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

f. Pursuant to a request from an employer covered by the Railroad Retirement Act or the Railroad Unemployment Insurance Act, information regarding the status of a qualified railroad retirement beneficiary's enrollment in Medicare and premium payment status may be released to the requesting employer for the purposes of coordinating employee supplemental welfare benefits.

g. If a request for information pertaining to an individual is made by an official of a labor organization of which the individual is a member and the request is made on behalf of the individual, information from the record of the individual concerning his entitlement and premium status may be disclosed to the labor organization official.

h. In the event that this system of records maintained by the Railroad Retirement Board to carry out its functions, indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in this system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

i. Information in this system of records may be released to the attorney representing an individual in connection with that individual's claim for benefits under the Railroad Retirement Act or Title XVIII of the Social Security Act, as amended, under receipt of a written letter or declaration stating the fact of representation, subject to the same procedures and regulatory prohibitions as the subject individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper, magnetic tape and microforms.

Retrievability: Health insurance claim number, name.

Safeguards: The Travelers Insurance Company is bound by the contract set forth by the Railroad Retirement Board which contains specific instruction regarding its responsibility in claim information handled and released. It is also bound by the same regulations regarding disclosure and security of information as the Board itself.

Retention and disposal: Each Travelers' office retains material for 27 months. At the end of 27 months the material is sent to the Federal Records Center. After 2 years the Federal Records Center destroys the material.

System manager(s) and address:

Director of Retirement Claims
U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Notification procedure: Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name and social security number and claim number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

Record access procedures: See Notification section above.

Contesting record procedures: See Notification section above.

Record source categories: Claimant, his authorized representative or his/her survivors, the Social Security Administration, physicians, hospitals.

Appendix II: Railroad Part B Regional Offices
Regions, and States and Territories in Region
Southeastern
P.O. Box 10066
Augusta, GA 30903
Phone (404) 736-4451
Alabama, District of Columbia, Florida, Georgia, Kentucky, Maryland, Mississippi, North Carolina, Puerto Rico, South Carolina, Tennessee, Virgin Islands, Virginia, and West Virginia

Northeastern
P.O. Box 395
Albany, NY 12201
Phone (518) 459-8900
Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont.

North Central
2200 East 170th Street
Lansing, IL 60438
Phone (312) 895-0700
Illinois, Indiana, Iowa, Michigan, Minnesota, North Dakota, Ohio, South Dakota, and Wisconsin.

South Central
P.O. Box 5493
Dallas, TX 75222
Phone (214) 272-6560
Arkansas, Colorado, Kansas, Louisiana, Missouri, Nebraska, New Mexico, Oklahoma, and Texas

Western
P.O. Box 30050
Salt Lake City, UT 84125
Phone (801) 486-3161
Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon, Utah, Washington, and Wyoming.

System name: Medical Examiner's Index—RRB.

System location: District Offices: See Appendix I for addresses.

Categories of individuals covered by the system: Physicians who have agreed to examine applicants.

Categories of records in the system: Physician's name, address, telephone number, medical field and specialties, special equipment available, fees, names of those examined and dates of examinations.

Authority for maintenance of the system: Section 7(b)(6) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(6)) Section 12(l) of the Railroad Unemployment Insurance Act (45 U.S.C. 362(l)).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: In the event that this system of records, maintained by the Railroad Retirement Board to carry out its functions, indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in this system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper.

Retrievability: Name of physician.

Safeguards: Kept in a special, separate file in an area of the office accessible only to district office employees. The office is locked during non-business hours.

Retention and disposal: Maintained indefinitely; cards will be removed and destroyed upon request of the doctor. If the physician's service has proved to be too slow or otherwise unsatisfactory, the record is destroyed by shredding.

System manager(s) and address:

Director of Retirement Clains
U.S. Railroad Retirement Board
844 Rush Street
Chicago, Illinois 60611

Notification procedure: Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name and social security account number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

Record access procedures: See Notification section above.

Contesting record procedures: See Notification section above.

Record source categories: Physician.

[FR Doc. 78-26409 Filed 9-25-78; 8:45 am]

federal register

TUESDAY, SEPTEMBER 26, 1978
PART III

DEPARTMENT OF LABOR

Office of the Secretary

YOUTH PROGRAMS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Final Rules

[4510-30]

Title 29—Labor

SUBTITLE A—OFFICE OF THE SECRETARY

PART 94—GENERAL PROVISIONS FOR PROGRAMS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

PART 97—SPECIAL FEDERAL PROGRAMS AND RESPONSIBILITIES UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Youth Programs Under the Comprehensive Employment and Training Act

AGENCY: Department of Labor.

ACTION: Final rules.

SUMMARY: The purpose of this publication is to publish final regulations to implement the Youth Community Conservation and Improvement Projects and the Youth Employment and Training Programs under the Youth Employment and Demonstration Projects Act of 1977 (YEDPA). Although these regulations are not effective until 30 days after publication, prime sponsors should utilize these regulations for planning and implementing the fiscal year 1979 program.

DATE: Effective date: October 26, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert Taggart, Administrator, Office of Youth Programs, U.S. Department of Labor, 601 D Street NW., Washington, D.C. 20213, 202-376-2646.

SUPPLEMENTARY INFORMATION: The Youth Employment and Demonstration Projects Act (YEDPA) of 1977, Pub. L. 95-93, became effective on August 5, 1977. It amended the Comprehensive Employment and Training Act (CETA) of 1973 by adding several new programs for youth. The purpose of these new programs is to employ and increase the future employability of young persons, to help coordinate and improve existing career development, employment and training programs, and to test different approaches in solving the employment problems of youth. YEDPA contains four distinct programs: (1) The Young Adult Conservation Corps (YACC) which emphasizes the participation of youth in needed conservation work on our Nation's public lands; (2) Youth Incentive Entitlement Pilot Projects (YIEPP), designed to test the effect of a year round structured work experience as an entitlement to encourage school completion; (3) Youth Community Conservation and Improvement Projects (YCCIP) designed to provide jobs and employment experience for youth in community betterment projects; and (4) Youth Employment and Training Programs (YETP) structured to make available to youth a broad range of employment and training services designed locally and adapted to local needs.

Section 702(a) of the Comprehensive Employment and Training Act (CETA) states that the Secretary may prescribe rules and regulations as he deems necessary to carry out the purposes of CETA. Pursuant to this authority, the Department of Labor is setting forth in this document the Federal regulations governing two of the new youth programs, YETP and YCCIP.

Both programs are to be operated by CETA Title I prime sponsors, sponsors of CETA Native American programs, sponsors of CETA migrant and seasonal farmworker programs and such other agencies and/or organizations as designated by the Secretary under his discretionary authority. The regulations in this document do not apply to Native American and migrant YETP and YCCIP programs. These regulations also do not apply to the Secretary's YETP and YCCIP discretionary funds.

For informational purposes, the following summary of requirements emphasizes several major provisions applicable to the implementation and operation of the YETP/YCCIP programs. These statements are in a narrative format to assist the reader in formulating an understanding of these programs.

Requirements Common to YCCIP and YETP Labor Union Participation

Section 353(d) of CETA requires that where an appropriate local labor organization represents employees who are engaged in similar work in the same area to that proposed to be performed under the program, that organization shall be afforded a reasonable period of time prior to the submission of the application in which to make comments.

The regulations provide for a 30-day comment period prior to the submission of YETP and YCCIP plans to the regional administrators. During that period, appropriate local labor organizations may make written comments to the eligible applicant. The eligible applicant must consider any such comment before submitting its plan to the Regional Administrator (RA). Additionally, if there are any changes in wage rates or job classifications to jobs in youth plans approved by the RA, appropriate labor organizations must be notified in writing at least 15 days prior to implementing such changes. If the appropriate labor organization disagrees with the proposed changes, the dispute must be resolved in writing prior to implementing such changes.

Requirements Common to YCCIP and YETP Annual Narrative Report

YEDPA as a Youth Employment and Demonstration Act, established a number of new procedures for youth programs as well as numerous demonstration programs to generate information for national as well as local decisionmakers. In March 1978, the Comprehensive Youth Initiatives Report was submitted to Congress reporting on the efficacy of different procedures to deal with the substantial unemployment problems of the Nation's youth.

One source of information about local operations is the prime sponsor's Annual Narrative Report. In the grant application process, prime sponsors shall describe qualitative and quantitative program goals which reflect local community and participant needs.

At the end of the fiscal year and on a date established by the Department of Labor, each prime sponsor shall submit an Annual Narrative Report. This report will include an assessment of the sponsor's performance and accomplishment of YETP and YCCIP.

Requirements for YCCIP Participation of Neighborhood and Community Based Organizations

Legislative history indicates the clear intent of Congress that YCCIP projects be carred out by neighborhood and community based organizations insofar as feasible. The regulations require that eligible applicants establish procedures which assure that potential project applicants, particularly neighborhood and community based organizations, are notified of the application process. Each eligible applicant is further required to establish objective project selection criteria which will be applied first to applications of neighborhood and community based organizations; only after these have been given such primary consideration may applications of other project applicants be considered. Furthermore, if eligible applicants elect to limit the types of activities for which the project applicants will compete, the regulations require that they secure the approval of the youth and planning councils in the selection of these activities.

Eligibility for Participation

Section 332 of CETA requires that any unemployed youth aged 16 to 19, inclusive, is eligible for YCCIP. How-

ever, it is intended that prime sponsors target the large majority of resources available to them for projects employing out-of-school youths. In section 354, CETA further requires that appropriate efforts be made to insure that participating youths shall be those who are experiencing severe difficulties in obtaining employment, including those who have demonstrated special needs, as determined by the Secretary. Because statistics show that youth in low-income families, particularly minority youth, have the highest unemployment rates, highest school dropout rates, and the greatest difficulties in entering the labor market, the regulations require that eligible applicants give preference to economically disadvantaged youth, and that they describe in their proposed plans the procedures they will use to assure this preference is given.

PROGRAM FUNDING ESTIMATES

Section 333 of CETA provides for allocation of YCCIP funds among the States based on the relative number of unemployed persons within each State as compared to all States. No provision is made for allocations within States. Program funding estimates rather than allocations are provided to each title I eligible applicant based on the relative share of the unemployed in that eligible applicant's area compared to all unemployed within the State. If an eligible applicant declines to participate in YCCIP or submits insufficient approval project applications, the RA may award its funds to other eligible applicants in the State within 30 days after a notification from the RA.

SUPERVISION AT WORK SITES

Section 335 of CETA requires that project applicants assure that there are adequate numbers of supervisory personnel on the project. Because well supervised activities are essential both for enhancing work habits and the development of skills, the regulations require that there should be at least the equivalent of 1 full-time supervisor to every 12 youths, unless adequate justification can be provided to support another ratio.

LIMITATION ON USE OF FUNDS

Because section 335 of CETA requires that this program be labor intensive, to the maximum extent feasible, the regulations have established percentage limitations on the use of the funds available. No more than 5 percent of the total funds available to an eligible applicant and program agents, if any, may be used for administrative costs. Of the remaining funds, at least 65 percent must be spent on participant wages and fringe benefits, unless the eligible applicant can justify a lower amount, and no more than 10 percent can be used by project applicants for administrative costs. Project applicants and eligible applicants are further encouraged to secure worksite supervisors, materials, and supplies from other sources, wherever feasible.

ROLE OF PROGRAM AGENTS

Section 336 of CETA permits program agents under title II of CETA to act as program agents under YCCIP. A jurisdiction eligible to be a program agent and electing to assume those functions under YCCIP will be responsible for the approval and disapproval of project applications submitted in its area and for the administration of the projects pursuant to section 204(d) of CETA; however, program agents must share with eligible applicants the funds available for administrative costs.

REQUIREMENTS FOR YETP SPECIAL CONSIDERATION FOR COMMUNITY BASED ORGANIZATIONS

Section 343(e) of CETA requires that special consideration be given to community based organizations (CBO's) of demonstrated local effectiveness in the delivery of employment and training services to youth. To assure special consideration, the regulations require that eligible applicants (1) actively involve local CBO's in the planning process and describe that role in the grant narrative; (2) provide public notification of the proposed youth plan through appropriate media to all CBO's and through written notification to CBO's of demonstrated local effectiveness in serving youth; (3) maintain documentation relating to the selection of service deliverers; and (4) consult with CBO's prior to directly performing classroom training, on-the-job training or work experience and document the administrative and programmatic benefits of such direct operation.

To further provide special consideration for CBO's the regulations require that, 30 days prior to the submission of youth plans to the RA, eligible applicants must provide to CBO's of demonstrated local effectiveness the full youth plan or a summary of the youth plan which at a miminum identifies the deliverers selected, the services each is to offer and the target group(s) to be served. Eligible applicants are to respond in writing to any substantive comments from CBO's regarding the selection of service deliverers and must include those responses in the plan submitted to the RA.

ELIGIBILITY FOR PARTICIPATION

Section 345(a) of CETA generally limits participation in YETP to individuals who are in families whose income does not exceed 85 percent of the lower living standard income level determined by the Bureau of Labor Statistics. Although the legislation also permits in some cases the provision of services to youth from families above that income level, the legislation and legislative history clearly indicate that YETP funds should be concentrated on those having severest difficulties in obtaining employment. The regulations, therefore, limit services to youth from families with incomes above the lower living standard income level to: counseling; placement services, occupational, educational, and training information; job referral information through coordinated intake; and programs to overcome employment-related sex stereotyping. In order to further target these programs to those having greatest need, the regulations also require that eligible applicants give preference to economically disadvantaged youth and that they describe in their proposed plans, the procedures they will use to assure that this preference is given.

Section 345(a) of CETA also allows that 10 percent of the funds available for this program may be used for programs which include youth of all economic backgrounds in order to adequately test whether the disadvantaged benefit from participation in nontargeted programs. Programs mixing youths in different economic backgrounds must be an identifiable program component which follows a structured experimental design in which comparison groups and follow-up are used to determine the benefits to the disadvantaged. A report on the results must be submitted at the end of the fiscal year.

AGREEMENTS WITH LOCAL EDUCATIONAL AGENCIES (LEA'S)

Section 343(d) of CETA requires that not less than 22 percent of the funds allocated to each eligible applicant must be used for programs for in-school youth carried out pursuant to agreements between eligible applicants and local educational agencies.

Since it is the purpose of LEA agreements to link eligible applicants and local educational agencies, only those two public entities may be signatories to the agreement. The particular form of the agreement itself has, however, been left flexible. The agreement may be financial or nonfinancial, and local educational agencies are encouraged to use other service deliverers in the area that can effectively provide the types of activities needed to serve the YETP in-school target population.

The regulations further provide for in-school career employment experience which combines ancillary transition services with any in-school work

experience or on-the-job training supported under YETP.

SUMMARY OF CHANGES FROM PROPOSED REGULATIONS

On July 5, 1978, the Department of Labor published in the FEDERAL REGISTER proposed changes to the YETP and YCCIP regulations for the fiscal year 1979. The comment period ended on July 31, 1978; during this period few comments were received, most of which supported the proposed changes. For those proposed changes on which no comments were received, the changes have been incorporated without explanation. For those regulations on which substantive comments were received each comment was reviewed with respect to the feasibility of implementing the change without disrupting the planning efforts currently underway and the particular merits of the suggestion. The changes made in these final regulations reflect the reactions to the comments received. For each of these changes, a short explanatory statement is provided to describe the substantive amendments. A description of these amendments to the July 5 proposed changes follows:

SECTION 97.602 AND 97.702—DEFINITIONS

The definition for the term "appropriate labor organization" found in these sections of the proposed regulations used the phrase "jurisdiction to represent employees." A comment was received from a national labor organization indicating that this phrase is too general. Therefore, the word local has been inserted to limit the term, "appropriate labor organizations" to mean local labor organizations that have jurisdiction to represent employees.

SECTION 97.616—APPLICATION FOR FEDERAL ASSISTANCE

The proposed regulations proposed and extension of the comment period for appropriate labor organizations from 15 to 30 calendar days in which they may submit written comments to the eligible applicant. Several comments were received, some in favor of the extended time period but most disagreeing with the change. However, the 30 day proposed provision is consistent with the time frame allowed for the State A-95 clearance process and does not disrupt the current plan comment period. Therefore, the final regulations contain the provision for a 30 day comment period for appropriate labor organizations.

Several commentors expressed their concern for the late publication of the proposed regulation changes, stressing that much of the fiscal year 1979 planning has occurred. To alleviate the difficulty in complying with the changes contained in this section and the planning provisions of other sections, § 97.616(b)(2) has been amended to include a statement that each RA shall establish a schedule for submission of the grant application which may include a request that a preliminary copy of the grant application be submitted to the regional office for review during the regular public comment period. However, the grant application cannot be approved until 30 days after submission of the plan to the appropriate organizations for comment and review. (This same provision has been included under § 97.711(a) of the YETP regulations.)

SECTION 97.623—ELIGIBILITY FOR PARTICIPATION

In the proposed regulations, a new paragraph (f) was added to this section to limit the enrollment of an individual to a maximum of 12 months in YCCIP. Many comments were received objecting to the limitation. This limitation is mandated by section 331 of CETA. The provision in the proposed regulations is not a new provision, but rather a reemphasis of § 97.611(c)(1) which requires all project applications to describe the expected duration of employment under each project and limits this duration to not more than 12 months.

SECTION 97.628—SUPERVISORY PERSONNEL

Although not a proposed change in the July 5, 1978, regulations, the provision of paragraph (b) of this section regarding the promotional rights of existing employees has been deleted. The provision is incorporated by reference in a new § 97.632, Maintenance of Effort which clarifies that the maintenance of effort provisions common to YETP apply to YCCIP.

SECTION 97.632—MAINTENANCE OF EFFORT

A new section addressing the maintenance of effort provisions applicable to the YCCIP has been added. This section clarifies that the maintenance of effort provisions under § 97.719 for YETP apply to YCCIP.

SECTION 97.705—ELIGIBLE APPLICANT PLANNING PROCESS

The proposed regulations added a new paragraph (e) to this section to provide a fair and open selection process of subgrantees/contractors and to bring the selection process to the attention of community-based organizations. In the proposed regulations, the word "competition" was used in discussing this process. Several commentors requested an explanation of this term, indicating that the language is subject to varying interpretations. This term has been retained to emphasize that prospective applicants should have an adequate opportunity to submit proposals and that prime sponsors should conduct a thorough and meaningful evaluation of such proposals. Paragraph (e)(2) sets forth specific procedures under which the competitive selection process is to be conducted; thus, there is little cause for confusion as to the meaning of "competition" in this context. This language is not intended to impose a requirement that selection of service delivers must be conducted by formal advertising or bidding; instead, it is designed to ensure that the selection process be a fair and open one.

Some commentors expressed concern that a competitive selection process would contravene the requirement at section 343(e) of CETA that special consideration be given to community-based organizations which have demonstrated effectiveness in the delivery of employment and training services. In response to these comments paragraph (e) has been revised to require that special consideration to such organizations shall constitute an element of the selection process.

This change is to ensure that even if the eligible applicant uses highly competitive and formalized selection methods, such as bidding, community-based organizations of demonstrated effectiveness will nontheless receive the special consideration to which they are statutorily entitled. It should also be noted that the YETP regulations contain numerous other provisions affording such organizations an opportunity to participate in the planning and development of YETP programs (see above discussion of "Special Consideration for Community Based Organizations").

Additionally, a clarification has been added to indicate that the provisions of paragraph (e) apply only when the eligible applicant does not administer the program itself and subgrants or contracts with other agencies to deliver services.

SECTION 97.709—NARRATIVE DESCRIPTION: PROGRAM AND PLANNING FORMS: ADDITIONAL DOCUMENTATION

The proposed regulations included a requirement that an occupational summary be included as a part of the sponsor's plan. Although no comments were received on this provision, the provision has been deleted since it is not a required planning form under YETP.

SECTION 97.714—ELIGIBILITY FOR PARTICIPATION

A new paragraph (g) has been added to this section which provides that wards of the court and offenders may be eligible for the program if they can

be determined to have left the family unit. This provision has been accepted as a provision under the SPEDY program and has been included to provide consistent eligibility criteria for wards of the court and youth offenders throughout the youth programs.

SECTION 97.716—ALLOWABLE ACTIVITIES AND SERVICES

Although not a proposed change in the July 5, 1978, regulations, a new paragraph (e) has been added to incorporate the vocational exploration program (VEP) as an allowable program activity under YETP. This paragraph clarifies the existing provision of § 97.717(a)(1)(H) and specifies the conditions governing the operation of VEP activities.

SECTION 97.717—IN-SCHOOL PROGRAM

In the proposed regulations, the time frame for the signing of LEA agreements had been reduced to 45 days. Comments were received stressing that the reduced time frame would make if difficult for eligible applicants and local educational agencies to reach agreement since the proposal was published so late in the planning phase of the program. Therefore, to alleviate this difficulty, the regulations have been finalized with the original 60 day period. Appropriate reference to the 45 day period for LEA agreements throughout the regulations has been changed to 60 days.

SECTION 97.718—PARTICIPANT BENEFITS

A new paragraph (c)(2) has been added to clarify that participants in vocational exploration programs (VEP) shall be paid allowances and to provide consistency with VEP programs under the summer youth program (SPEDY).

Paragraph (e) has been revised to indicate that "earnings" received under YETP shall be disregarded in determining eligibility of the youth's family for, and the amount of, any benefits based on need under any Federal or federally assisted programs. This change has been made so that the language of the regulation will parallel exactly the income disregard language of section 356 of CETA which uses the term "earnings".

SECTION 97.719—MAINTENANCE OF REPORT

Previously, paragraph (b) of this section made reference to § 97.334 of this Part 97. Some commentors indicated that the specific provisions of § 97.334 should be written out in these regulations rather than incorporated by reference. Therefore, this has been done.

Accordingly, Title 29 of the Code of Federal regulations is amended as follows:

§ 94.3 [Amended]

1. In § 94.3, Consolidated table of contents for Parts 94-99; the tables of contents for Part 97, Subparts G and H, are revised to read as follows:

* * * * *

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97.602 Definitions.
97.603 Eligible applicants.
97.604 Allocation of funds; program funding estimates.
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97.606 Reallocation of funds.
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GRANT PLANNING, APPLICATION, AND MODIFICATION PROCEDURES

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97.609 Pre-application for Federal assistance (Standard Form 424).
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97.611 Project application content.
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97.631 Limitation on use of funds.
97.632 Maintenance of effort.

SUBPART H-YOUTH EMPLOYMENT AND TRAINING PROGRAMS

GENERAL

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97.701 Scope and purpose
97.702 Definitions.
97.703 Allocation of funds.
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97.715 Eligibility for participation (extraordinary).
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GOVERNORS YOUTH PROGRAMS

97.722 Governors youth programs.

2. Part 97 is amended by revising the following two subparts.

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97.619 Special assurance and certifications.
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ADMINISTRATIVE PROVISIONS

97.622 Administrative provisions.

PROGRAM OPERATIONS

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SUBPART H-YOUTH EMPLOYMENT AND TRAINING PROGRAMS

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97.721 Academic credit.

GOVERNORS YOUTH PROGRAMS

97.722 Governors youth programs.

AUTHORITY: Sec. 702(a), Comprehensive Employment and Training Act of 1973, as amended (Pub. L. 93-203, 87 Stat. 839 (29 U.S.C. 801 et seq.); Pub. L. 93-567, 88 Stat. 1845 and Pub. L 94-444, 90 Stat. 1476), unless otherwise noted.

Subpart G—Youth Community Conservation and Improvement Projects

GENERAL

§ 97.601 Scope and purpose.

(a) This subpart contains the Department of Labor's regulations governing the establishment and operation of Youth Community Conservation and Improvement Projects (YCCIP) under Title III, Part C, Subpart 2, of the act. The regulations at Part 98 of this title also apply to the YCCIP program, except to the extent noted in this subpart. The provisions at §§ 97.603 through 97.631 apply to the grants to eligible applicants which are title I prime sponsors.

(b) To the extent the regulations set forth in this subpart conflict with other regulations promulgated under the act in 29 CFR Parts 94 through 99, the requirements contained in this subpart shall apply.

(c) This program seeks to provide youth experiencing severe difficulties in obtaining employment with well supervised work in projects that produce tangible benefits to the community. In order to adequately meet community needs, the participation of neighborhood and community based organizations in the program is stressed. This program places predominant emphasis on the development and provision of jobs. Any training must be directly related to the development of specific skills needed for the job. Participation should result wherever possible in the attainment of academic credit for competencies gained from employment. The Department expects that supervisors will play a strong role in introducing and reinforcing desirable work habits. Program operators shall target activities primarily on economically disadvantaged youth, because these individuals, particularly minorities, have the highest unemployment rates, highest dropout rates and greatest difficulties in obtaining employment. Since it is expected that most participants will be school dropouts or have high dropout potential, projects should be structured so that academic credit may be granted for work experience. Youth are to be encouraged to remain in school or return to school if they are out of school. Any programs developed for in-school youth must be flexible enough to accommodate the scheduling needs of such youth.

(d) The Department of Labor will provide allocations of funds for States rather than to eligible applicants, but will provide eligible applicants with program funding estimates to be used by them for planning purposes. Eligible applicants are expected to submit quality project applications selected through an objective process at the local level. The Department will review these project applications, and will fund only those projects which fulfill the requirements of the program. Under certain conditions, an eligible applicant may be awarded less than its program funding estimate, with the remaining funds awarded for acceptable projects to eligible applicants elsewhere in the State.

§ 97.602 Definitions.

Definitions for abbreviations and major terms used in this subpart are contained in § 94.4 of this title. The following definitions are specific to this subpart:

(a) "Appropriate labor organization" shall mean a local labor organization that has jurisdiction to represent employees in the eligible applicant's area in the same or substantially equivalent jobs as those proposed to be filled or already filled by YCCIP participants.

(b) "Eligible applicant" shall mean any prime sponsor qualified under section 102 of CETA, sponsors of Native American programs qualified under section 302(c)(1) of CETA and sponsors of migrant and seasonal farmworkers programs qualified under section 303 of CETA.

(c) "Low-income housing" shall mean dwellings of individuals whose incomes are at or below 125 percent of the poverty level which are privately owned and owner occupied, privately owned by a nonprofit organization, or units of public housing. For weatherization or winterization projects funded and approved by the Federal Energy Administration or the Community Services Administration, "low-income housing" shall include privately owned rental housing.

(d) "Neighborhood and community-based organizations" shall mean (1) neighborhood groups organized at the local level to operate employment and training programs, and which have demonstrated local effectiveness. Such organizations can be private nonprofit organizations or associations; and (2) community-based organizations as defined in § 97.702(c).

(e) "Program funding estimate" shall mean the level of funds announced by the Department for each eligible applicant which is a prime sponsor qualified under section 102 of CETA for its planning purposes. The estimate is determined by apportioning the State allocation among such eligible applicants for YCCIP, using the unemployment data available for each such eligible applicant area in proportion to the unemployment data for the State.

(f) "Project" shall mean "Community Conservation and Improvement Project" which provides constructive work, which would not otherwise be carried out, conducted by youths, under the guidance of skilled supervisors, which (1) results in tangible outputs or a specific product; (2) benefits participants in terms of work habits, skills, and attainment of academic credit where applicable; and (3) will be completed within a definable period of time not to exceed 12 months.

(g) "YCCIP" shall mean the Youth Community Conservation and Improvements Projects.

§ 97.603 Eligible applicants.

Any eligible applicant may apply for funds for projects in its area.

§ 97.604 Allocation of funds; program funding estimates.

(a) *Allocations.* Allocations shall be provided to the States on the basis of the formula and distribution requirements in section 333 of the Act.

(b) *Program funding estimates.* The Secretary will provide eligible applicants with program funding estimates based on their relative share of the State's unemployed.

§ 97.605 Award of funds.

(a) The RA may award to an eligible applicant an amount of funds equal to the program funding estimate when sufficient approvable project applications are submitted by the eligible applicant.

(b) The RA may award to an eligible applicant an amount of funds greater than the program funding estimate when another eligible applicant within the same State has not submitted to the RA a Preapplication for Federal Assistance or sufficient approvable project applications within the time required.

§ 97.606 Reallocation of funds.

The RA shall reallocate funds from one State to another when the RA determines that an eligible applicant will not be able to use the funds within a reasonable period of time and that no other eligible applicant within the same State will be able to effectively use the funds within a reasonabale period of time. The notice and comment procedure described in § 98.11(d) of this title shall apply to such reallocations, except that the reference in § 98.11(d) to paragraph (c) (concerning reallocation based on need) does not apply.

§ 97.607 Redistribution of funds.

The RA shall redistribute funds, after a grant has been signed, from one eligible applicant to another within the State when:

(a) The RA determines that the eligible applicant will not be able to use the funds within a reasonable period of time. The actions described in § 98.11(d) of this title shall apply, except that the reference in § 98.11(d) to paragraph (c) (concerning reallocation based on need) does not apply; or

(b) The RA determines that the eligible applicant's performance is inadequate or that it has failed to comply with the act or the regulations. The procedures set forth in § 98.11(b) of this title shall apply to such cases.

GRANT PLANNING APPLICATION, AND MODIFICATIONS PROCEDURES

§ 97.608 Eligible applicant planning process.

Every eligible applicant which desires funds shall submit a preapplication pursuant to § 97.609 and a plan pursuant to §§ 97.615 through 97.619. The eligible applicant shall utilize the planning process and planning council as described in § 95.13(b) and (c) of this title and the youth council described in § 97.705(b) of this part in developing its plan.

§ 97.609 Preapplication for Federal Assistance (Standard Form 424).

(a) An eligible applicant interested in applying for funds shall submit a Standard Form 424 to the RA, governor and areawide A-95 clearinghouse by a date set by the RA.

(b) The RA may require that the additional information specified below be submitted at the same time as the Preapplication for Federal Assistance. Where the option to require additional information is exercised, an approval or disapproval decision concerning the adequacy of that information must be provided to the eligible applicant by five (5) working days after the submission date of the Standard 424. Further, the additional information submitted by the eligible applicant will not be required for resubmission in the formal proposed plan. The information that may be required in the preapplication includes a description of methods to be used to:

(1) Solicit applications, in particular, from neighborhood and community-based organizations, and for soliciting comments on the project applications from the planning and youth councils § 97.613(g);

(2) Objectively select and rank project applications § 97.614; and

(3) Insure involvement of appropriate labor organizations.

§ 97.610 Project planning process.

(a) In developing the program specifications, eligible applicants may consider proposals for any allowable activities under YCCIP or may elect to limit the types of activities for which project applicants will compete. In the latter case, the eligible applicant must secure the approval of the planning and youth councils in the selection of these activities. The eligible applicant may limit the types and number of project applications by:

(1) Establishing parameters regarding the size and duration of all projects;

(2) Identifying priority community needs, e.g., environmental, weatherization, and housing rehabilitation projects; and

(3) Identifying specific neighborhoods or geographic areas in which projects may be conducted.

(b) A program agent under title II may elect to be a program agent under this subpart. Program agents under YCCIP shall approve or disapprove projects, administer the program in their areas, and be subject to the limitation of funds provided in § 97.631.

(c) Each eligible applicant shall establish procedures for its own use and the use of any program agent(s) which will assure that potential project applicants (as defined in § 94.4 (ppp) of this title), particularly neighborhood and community-based organizations are notified of the project application process and the cut-off date for acceptance of project applications. The method of notification may be public hearings or public notice in the newspapers, bulletins, or other appropriate media.

§ 97.611 Project application content.

All project applications must contain the following information:

(a) Name of agency or organization applying for project funds, type of agency (community-based organization, local educational agency as defined in § 97.702, etc.) and, if applicable, the program agent to which it was submitted;

(b) *Description of Project.* (1) The need for the project in the area in which it will be conducted and how the project will meet the need;

(2) The types of jobs youth are to perform;

(3) The full-time supervisor to youth ratio, or its equivalent and the reason for selecting the ratio;

(4) The qualifications of the supervisors in terms of necessary skills and experiences, or where these are not yet specifically identified, assurances that supervisors will be adequately trained in the skills needed to carry out the projects and in instructing participating youth and a description of the method for selecting supervisors; and

(5) The beginning and ending dates of the project;

(c) *Participants.* (1) Identification of the number of participants to be enrolled and their expected duration of employment, not to exceed 12 months;

(2) List of target groups to be served; and

(3) Description of the expected benefits to participants, e.g., skills to be obtained, other positive terminations anticipated, academic credits to be earned, etc.;

(d) *Job titles, descriptions and wages.* (1) The principal job titles, job descriptions, and hourly wages to be paid for each. If job restructuring as defined in § 97.702(g) is to occur, a description of the methods of analysis to be used, the expected results, the methods for soliciting consultation of appropriate labor organizations, and the relevant expertise of personnel who performed the restructuring; and

(2) The participation of appropriate labor organizations and other affected organizations with regard to job classifications and wage rates;

(e) *Administration.* A description of the project applicant's organization (including type of organization, purpose of organization), experience in operating employment and training programs and/or providing public services, and a description of the accounting and financial management procedures and/or arrangements; and

(f) *Budget.* Totals for the following line items:

(1) Direct program costs as defined in § 98.12(f)(6)(iii) of this title;

(2) Costs of participant wages and fringe benefits;

(3) Costs of wages and fringe benefits of work-site supervisors;
(4) Costs of job-related training;
(5) Costs of materials, supplies and equipment used by participants on the job; and
(6) Cost of supportive services for participants.

§ 97.612 Project application submission.

The project applicant shall submit applications to the program agent for its area, or to the eligible applicant if there is no program agent for its area.

§ 97.613 Project approval.

(a) Criteria shall be established by the eligible applicant to be used consistently by itself and any program agents for evaluating and approving project applications. These criteria are subject to review and comment by the Youth and Planning Councils.
(b) Each project, in order to be approved, must:
(1) Provide tangible output and measurable benefits which will accrue to the community;
(2) Provide benefits to participants in terms of work habits, skills, and attainment of academic credit where applicable;
(3) Be labor intensive;
(4) Assure an adequate level of supervision, taking into account the complexity of the jobs to be created; and
(5) Describe or assure adequate qualifications for supervisors in terms of necessary skills and experience.
(c) Project applicants must assure that the project will result in an increase in employment opportunities over those which would otherwise be available, and that:
(1) It will not result in the displacement of currently employed workers;
(2) It will not substitute jobs assisted under this subpart for existing federally assisted jobs;
(3) It will not employ any youth when any other person is on layoff by the employer from the same or any substantially equivalent job in the same area;
(4) It will not employ any person to fill a job opening created by laying off or terminating the employment of any regular employee, or otherwise reducing the regular work force, in anticipation of filling vacancies by hiring youth to be supported under YCCIP;
(5) It will not infringe upon the promotional opportunities which would otherwise be available to persons currently employed in public service not subsidized under the Act;
(6) It will not permit a job to be filled in other than an entry-level position in each promotional line until applicable personnel procedures and collective bargaining agreements have been complied with; and
(7) Where job restructuring will occur or where new job classifications will be developed, these will not be done in order to negate established personnel procedures, or to displace currently employed workers.
(d) The project approval process shall assure that project applications from neighborhood and community-based organizations of demonstrated local effectiveness in providing employment and training services to youth will be considered before applications from other project applicants are considered. Where it can be documented that the neighborhood or community-based organization does not have the administrative capability to run the project, or its project application does not meet the criteria established by the prime sponsor, then project applications from other than neighborhood and community-based organizations may be considered: *Provided*, The same criteria are used.
(e) Program agents shall review the project applications submitted to them, approve or disapprove them, and submit all project applications to the eligible applicant, indicating their approval of disapproval.
(f) The eligible applicant shall review those project applications received, including those submitted by any program agent(s). When reviewing those submitted by a program agent, the eligible applicant shall give due consideration to project applications approved by the program agent.
(g) After review, the eligible applicant shall submit all project applications to the youth and planning councils for comment and recommendations.
(h) After review of any comments and/or recommendations of the planning and youth councils, the eligible applicant shall approve or disapprove the project applications. The eligible applicant, however, shall not disapprove a project application recommended for approval by the planning council unless it has first considered any comments and recommendations made by the planning and youth councils and unless it has provided the councils with a written statement of its reasons for disapproval (sec. 336(c)(2)).
(i) In cases of disapproval, the eligible applicant shall inform the project application in writing of its disapproval. It must also indicate the reasons for the disapproval.

§ 97.614 Project prioritization.

(a) Each eligible applicant shall rank, in terms of their relative priority, approved project applications.
(1) It shall first rank those projects having highest priority whose total proposed cost does not exceed the amount available for projects (see § 97.631).
(2) It shall then rank those additional approved project applications, if any, for future funding consideration as described in § 97.615 (b)(2).
(b) Eligible applicants shall document the rationale used for ranking the approved project applications.

§ 97.615 Submission of the proposed plan.

(a) Each eligible applicant must submit a proposed plan to the RA by a date established by the RA. The proposed plan shall consist of prioritized project applications as well as the items described in §§ 97.616 through 97.619. The eligible applicant shall also submit any project applications approved by any program agents, but disapproved by the eligible applicant, together with a description of the due consideration which was accorded to them.
(b) Each eligible applicant shall submit two separate lists of project applications prioritized in accordance with the provisions fo § 97.614:
(1) A primary listing of prioritized proposed projects not to exceed 100 percent of the program funding estimate; and
(2) A secondary listing of prioritized proposed projects without dollar or number limitations. This second listing will be considered for future funding in instances where:
(i) Projects submitted within the 100 percent are not acceptable to the RA;
(ii) A project is subsequently found to be non-productive or is withdrawn; or
(iii) Additional funds become available.
(3) Prime sponsors submitting a secondary listing will be given primary consideration for receipt of additional funding.

§ 97.616 Application for Federal Assistance.

(a) Standard Form 424, Application for Federal Assistance, shall be submitted.
(b)(1) Where there is an appropriate labor organization, it shall be given either the complete proposed plan or a summary of the proposed plan which includes a list of all job classifications and wage rates and afforded 30 calendar days to make written comments to the eligible applicant prior to the submission of the proposed plan to the RA.
(2) The comment and publication procedures provided in § 95.15 of this title shall apply to YCCIP; except that, the RA shall establish a schedule for submission of the grant application which may include a request that a preliminary copy of the grant application be submitted to the regional office for review. However, the grant

application cannot be executed until 30 days after submission of the plan to appropriate organizations during which time comments can be submitted to the RA and prime sponsor.

(3) Project applicants and other interested parties must be notified through appropriate media that they may review the proposed plan at a designated location.

§ 97.617 Narrative description.

The narrative description shall contain the eligible applicant's overall strategy and design and shall describe the procedures to be used to implement and administer the program including:

(a) Methods used to solicit project applications, in particular those from neighborhood and community-based organizations;

(b) Methods used to approve and prioritize project applications;

(c) The criteria used for approving and prioritizing project applications;

(d) The participation of appropriate labor organizations;

(e) Recruiting methods to be used if different from those described in the Prime Sponsor Agreement (PSA). This description should include coordination with other programs under the Act;

(f) The target groups to be served and procedures used to assure that economically disadvantaged youths receive preference;

(g) Plans for assessing the results of the projects to both the participants and the community; and

(h) A description of the administrative structure including subgrant and contract administration, which will be used if different from that described in the PSA.

§ 97.618 Budget Information Summary and Program Planning Summary.

A Budget Information Summary and Program Planning Summary shall be completed by the eligible applicant and submitted as part of the plan. Eligible applicants shall use the classifications of costs by category which are provided in the grant package instructions.

§ 97.619 Special assurances and certifications.

(a) The proposed plan shall contain the following special assurances:

(1) Compliance with Prime Sponsor Agreement (PSA), including the assurances and certifications in the PSA;

(2) Compliance with the Youth Employment and Demonstration Projects Act of 1977 and the regulations of 29 CFR 97.601–97.631 and will be administered consistent with the Act and 29 CFR Subparts G and H;

(3) Compliance with the Hazardous Occupations Orders issued pursuant to the Fair Labor Standards Act and set forth at 29 CFR 570.50 *et seq.* with respect to the employment of youths under 18 years of age;

(4) Assurance that any person hired to supervise youth, under this subpart, will not impede the promotional rights of existing employees; and

(5) Assurance that local labor organizations who represent employees engaged in work similar to that proposed to be performed under this subpart are notified in writing of all wage rate and job classification changes.

§ 97.620 Plan review and approval.

(a) The RA shall first review the project applications to determine if they meet the requirements of the Act, the regulations of this subpart and other applicable law.

(b)(1) Using the factors and assurances set forth in § 97.613 (b) and (c), the RA shall consider ranked projects and may approve projects up to 100 percent of the amount of the eligible applicant's program funding estimate which is available for projects.

(2) The RA shall disapprove any project application which does not meet the factors and assurances of § 97.613 (b) and (c) and other requirements of the Act, the regulations and other applicable law. RA's will review individual applications for outstanding disagreements between appropriate labor organizations, employers and eligible applicants with respect to jobs that have been restructured. RA's will provide in writing to the eligible applicant an explanation for any prioritized project applications that are rejected.

(c) If there are not sufficient approvable prioritized project applications in the plan to equal the amount of the eligible applicant's program funding estimate which is available for projects, the RA shall allow the eligible applicant 30 days in which to modify the prioritized project applications which were submitted to the RA. If the eligible applicant fails to submit revised project applications or submits revised project applications which are not approvable, the RA shall award the unused funds to another eligible applicant within the State. In States with only one eligible applicant or in States where no other eligible applicant will be able to spend these funds within a reasonable period of time, the RA shall initiate the reallocation procedures set forth in § 97.606.

(d) The approval of the proposed plan will be in accordance with § 95.18 of this title.

(e) The RA shall determine whether or not the eligible applicant gave due consideration to project applications approved by any program agent, but disapproved by the eligible applicant.

§ 97.621 Modifications.

(a) Any modification to the plan will be in accordance with the provisions of § 95.21 of this title, except that in § 95.21(a) the term "project(s)" shall be read for the term "program activities," and references to public service employment shall be disregarded.

(b) Appropriate labor organizations and the RA must be notified in writing of all wage rate and job classification changes under the youth plan at least 15 calendar days prior to implementing such changes. If the appropriate labor organization disagrees with the proposed changes in job classification or wage rates, the dispute must be resolved in writing prior to implementing such changes.

ADMINISTRATIVE PROVISIONS

§ 97.622 Administrative provisions.

(a) Eligible applicants shall comply with the administrative provisions of Part 98 of this title in operating programs pursuant to this subpart, except as stated in §§ 97.629 and 97.631.

(b) Eligible applicants or program agents shall enter into financial agreements with project applicants except as provided in paragraph (d) of this section. With respect to such agreements, program agents are governed by the fund restrictions set forth in § 97.631.

(c) Eligible applicants must share administrative costs as provided under § 97.631(a) with the program agent(s).

(d) The eligible applicant or program agent may enter into a nonfinancial agreement with a project applicant if there is a written agreement between the project applicant and the eligible applicant that clearly identifies the adminstrative and programmatic benefits of such a non-financial agreement.

PROGRAM OPERATIONS

§ 97.623 Eligibility for participation.

(a) In order to participate, an individual must at the time of application and enrollment:

(1) Be 16 through 19 years of age, inclusive; and

(2) Be unemployed, as defined in § 94.4(ggg) of this title.

(3) If at the time of enrollment in any other program under the Act, a 16 through 19 year old youth was unemployed, that individual may be transferred into this program: *Provided:* The individual meets the age eligibility at the time of transfer.

(b) Eligible applicants shall give preference to the economically disadvantaged, as defined in § 94.4(s) of this title.

(c) Appropriate efforts shall be made to serve those youths who have severe

difficulties in obtaining employment, as described in § 97.714(e).

(d) The citizenship and veterans provisions of § 95.32 (d) and (e)(1) of this title shall apply to YCCIP programs.

(e) No youth may enroll in full-time employment opportunities if the eligible applicant determines that there is evidence the youth dropped out of high school in order to participate (sec. 353(f)(2)).

(f) Each participant shall be limited to a maximum enrollment of 12 months with no more than two terminations and reenrollments provided age eligibility is met at the time of each reenrollment. However every effort should be made to transition participants into unsubsidized jobs or other CETA opportunities upon completion of the 12 months enrollment (sec. 331).

§ 97.624 Acceptable project activities.

(a) Each project shall insure that each participant does constructive work in terms of individual and community benefits during the participation in the program. Such employment shall be in projects that may include the rehabilitation or improvement of public facilities (including accessing them for the handicapped by removing architectural barriers); neighborhood improvements; weatherization and basic repairs to low-income housing as defined in § 97.602(c); energy conservation including solar energy projects, especially those utilizing materials and supplies available without cost; and conservation, maintenance, or restoration of natural resources of non-Federal publicly held lands.

(b) Training provided must be directly related to a participant's job.

(c) Where in-school youth are served, they must be in a structured combination work and education program.

§ 97.625 Participant benefits.

(a) Participants shall be paid wages as described in § 97.718(d).

(b) Each participant shall be provided the benefits and working conditions as provided in § 98.24 of this title.

§ 97.626 Academic credit.

Eligible applicants shall make appropriate efforts to encourage educational agencies and postsecondary institutions to award academic credit for the competencies participants gain from their employment.

§ 97.627 Substitution for Title I programs.

Programs funded under YCCIP shall be supplementary to, and shall not replace programs and activities for youth available under title I of the Act (see §§ 95.13(b)(3) and 95.14(b)(3)(ii)(G) of this title).

§ 97.628 Supervisory personnel.

Each project must have an adequate number of skilled supervisors. There must be at least the equivalent of 1 full time supervisor to every 12 youths, unless satisfactory justification for another ratio is provided in the eligible applicant's plan. Supervisors must have the skill needed to carry out the project and must be able to instruct participants in those skills.

§ 97.629 Materials, equipment and supplies.

(a) Funds may be expended subject to the limitation of § 97.631 for the acquisition, lease or rental of supplies, equipment, and materials. The provisions of § 98.12(c) of this title which prohibits the use of funds for the costs of materials which become a part of the construction do not apply.

(b) Eligible applicants are encouraged to make use of resources from Community Services Administration and Federal Energy Administration to supplement YCCIP funds. Eligible applicants should be aware that Federal statutes which provide funds for materials, supplies, etc., often have Davis-Bacon related provisions which may affect wage rate levels in projects involving construction.

§ 97.630 Earnings disregarded.

Earnings received by any youth under this subpart shall be disregarded in determining the eligibility of the youth's family for, and the amount of, any benefits based on need under any Federal or federally assisted programs.

§ 97.631 Limitation on use of funds.

(a) No more than 5 percent of the total funds may be used by the eligible applicant and program agent(s) for administrative costs including those supportive costs as defined in § 98.12 (f)(6)(ii) of this title and those costs incurred in the establishment and maintenance of the prime sponsor's Planning Councils, in publishing a Comprehensive Manpower Plan, and in monitoring and providing technical assistance to contractors and subgrantees. The remaining funds must be made available for projects.

(b) Of the project funds:

(1) At least 65 percent of the funds must be used for participant wages and fringe benefits, unless adequate justification is provided in the eligible applicant's plan.

(2) No more than 10 percent may be used by project applicants for administrative costs including those direct program costs defined in § 98.12 (f)(6)(iii).

(3) Any remaining funds may be used for training of participants, materials, equipment, supplies, on-site supervisors, and supportive services, etc. Such materials and supplies which become a part of the construction project may be chargeable to a training cost category provided these costs are incurred for participants in either a work environment or classroom training.

§ 97.632 Maintenance of effort.

The provisions of § 97.719 shall apply to YCCIP programs

Subpart H—Youth Employment and Training Programs

General

§ 97.701 Scope and purpose.

(a) This subpart contains the regulations for the Youth Employment and Training Programs (YETP) which are authorized by Title III, Part C, Subpart 3 of the Act. These regulations also implement, with respect to YETP, the administrative provisions found in sections 341 through 347 of the Act. The regulations at part 98 of this title also apply to YETP programs except as indicated in this subpart. The regulations at sections 703 through 721 of this subpart apply only to eligible applicants which are title I prime sponsors. To the extent the regulations set forth in this subpart conflict with other regulations issued under the Act in 29 CFR, Parts 94 through 99, the regulations contained in this subpart shall prevail (sec. 357).

(b) It is the purpose of this program to enhance the job prospects and career opportunities of young persons to enable them to secure unsubsidized employment in the public and private sectors of the economy. It is not the purpose of this program to provide make-work activities but rather to provide youth, especially economically disadvantaged youth with opportunities to learn and earn, which will lead to meaningful employment opportunities after they have completed the program. In addition, this program explores methods of dealing with the structural unemployment problems of youth and the immediate difficulties of youth in need of and unable to find jobs (sec. 341).

(c) In order to achieve the highest quality of program services, coordination with existing services for youth is essential. These services include: Activities funded under the other parts of CETA; employment and educational services provided by local educational agencies, and post-secondary institutions; services offered by State Employment Security Agencies; programs funded through other sources such as community-based organizations; and employment and educational activities of business, labor, and nonprofit institutions in the community.

(d) Information gained from the operation of YETP will be considered by

the Department in developing future legislative and program designs.

§ 97.702 Definitions.

Definitions of abbreviations and major terms used in this subpart are contained in § 94.4 of this title. Special definitions applicable to terms found in this subpart are as follows:

(a) "Appropriate labor organization" shall mean a local labor organization that has jurisdiction to represent employees in the eligible applicant's area in the same or substantially equivalent jobs as those proposed to be filled or already filled by YETP participants.

(b) "Career employment experinece" shall mean a program activity for in-school youth which is a combination of both well supervised employment (work experience or on-the-job training) supported under YETP and certain transition services including, at a minimum, career information, counseling and guidance.

(c) "Community based organization (CBO)" shall mean a private nonprofit organization which is representative of a community or of particular segments of a community and which can provide employment and training services. Such organizations may include but are not limited to Opportunities Industrialization Centers, the National Urban League, SER-jobs for Progress, Mainstream, Community Action Agencies, union-related organizations, employer-related nonprofit organizations, neighborhood organizations, private nonprofit youth serving agencies concerned with youth employment and other similar organizations.

(d) "Eligible applicant"shall mean any prime sponsor qualified under section 102 of CETA, sponsors of Native American programs qualified under section 302(c)(1) of CETA and sponsors of migrants and seasonal farmworkers programs qualified under section 303 of CETA.

(e) "In-school program" shall mean a program which provides either or both career employment experience and transition services to in-school youth.

(f) "In-school youth" shall mean a youth who: (1) Is currently enrolled full-time in and attending a secondary, trade, technical, vocational school or community college, or is scheduled to attend full time the next regularly scheduled quarter or semester of any of these schools; or (2) has not completed high school and is scheduled to attend in a school program leading into a secondary school diploma or its equivalent (sec. 343(d)).

(g)(1) "Job restructuring" shall mean the procedure which includes:

(i) Identifying the separate tasks that comprise a job or group of jobs;

(ii) Developing new position descriptions which retain some of the tasks of the original job; and

(iii) Developing a career ladder which builds upward from the new positions containing the lesser skilled tasks to regular jobs.

(2) A restructured job shall be clearly different from the original one in terms of skills, knowledges, abilities, and experience needed to perform the work (sec. 342(a)(3)(L)).

(h) "Local education agency (LEA)" shall mean a public board of education or other public authority legally constituted within a State for either administrative control over, direction of, or service to public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or a combination of such school districts or counties which are recognized in a State as an administrative agency for their public elementary or secondary schools (sec. 343 (d)).

(i) "Of this title" shall mean "of Title 29 of the Code of Federal Regulations."

(j) "Transition services" shall mean services and activities which are designed to assist youth to make the transition from school to unsubsidized jobs. These services are set forth in § 97.717(a)(1).

(k) "YETP" shall mean the Youth Employment and Training Programs.

§ 97.703 Allocation of funds.

(a) *General.* The Secretary shall publish formula allocations to eligible applicants in the FEDERAL REGISTER.

(b) *Formula allocated funds (sec. 343).* (1) The Secretary shall allocate 75 percent of the funds available to YETP to eligible applicants which are prime sponsors under section 102 of CETA.

(2) Of the funds available to YETP, the Secretary shall allocate an amount equal to 5 percent of the funds available under Title III, Part C of the Act, to Governors for programs as specified in § 97.722.

(3) The Secretary shall allocate funds to eligible applicants and Governors using the formula set out in section 343(b) of the Act.

(c) *Additional allocations.* The Secretary shall allocate funds to Indian, Native American, and migrant and seasonal farmworker eligible applicants as provided in section 343 of the Act.

(d) *Secretary's discretionary funds.* The Secretary shall use all remaining funds for programs designed to identify and test approaches for dealing with the unemployment problems of youth (secs. 343, 348).

§ 97.704 Reallocation procedures.

(a) Reallocation procedures under YETP will apply only after a grant is signed.

(b) The RA shall reallocate funds awarded to an eligible applicant if the RA determines that the eligible applicant will not be able to use the funds within a reasonable period of time as determined by the RA (sec. 354(b)).

(c) The procedures described in § 98.11(d) of this title shall apply to reallocations except that the reference in § 98.11(d) to paragraph (c) (concerning reallocation based on need) does not apply.

(d) The RA may also reallocate funds based on nonperformance. The procedures set forth in § 98.11(b) of this title shall apply to the reallocation of funds based on nonperformance.

(e) If all proposed LEA agreements or certifications to existing agreements under a grant are not signed by the eligible applicant and the LEA(s) within 60 days after the initial submission of the YETP plan to the RA for review and approval, the RA shall initiate reallocation procedures for that portion of the 22 percent of the eligible applicant's funds which were required to be covered under LEA agreements. The procedures set forth in § 98.11(d) apply to such reallocations, except that, the reference in § 98.11(d) to paragraph (c) (concerning reallocation based on need) does not apply.

GRANT PLANNING, APPLICATION, AND MODIFICATION PROCEDURES

§ 97.705 Eligible applicant planning process.

(a) *Youth plan.* Every eligible applicant which desires funds shall submit a youth plan containing the items listed in §§ 97.706 through 97.710. In developing its youth plan, the eligible applicant shall:

(1) Take into account the eligible applicant's Title I and summer program plans;

(2) Utilize the planning process and planning council, as described in § 95.13 (b) and (c) of this title, and the youth council described in paragraph (b) of this section;

(3) Afford an opportunity to community based organizations of demonstrated local effectiveness in providing employment and training activities for youth to participate in the development of the youth plan as required by paragraph (c) of this section; and

(4) Afford an opportunity to appropriate labor organizations to participate in the development of the youth plan as required by paragraph (d) of this section.

(b) *Youth council.* Each eligible applicant shall establish a youth council, (sec. 346).

(1) In consultation with the planning council, the eligible applicant shall make appointments to a youth council which include individuals who are representative of the local educational agencies, the local vocational advisory council, post-secondary education institutions, business, unions, the State employment security agency, local government and nongovernment agencies which are involved in serving youth, the local community, and the eligible applicant. In addition, youth council members shall include youths who are participants in, or eligible for YETP.

(2) The youth council may be either an entirely separate council or a subcommittee or subcouncil to the planning council, or eligible applicants may use existing youth councils created with respect to other programs under this Act if these councils meet the requirements set forth in this section. In all cases, the youth council must report to the planning council.

(3) The youth council shall advise the sponsor in setting basic goals, policies and procedures for its YEDPA subpart 3 program, make recommendations regarding program plans, and provide for continuing analyses of needs for employment, training and related services. The youth council will also monitor all YETP programs and evaluate youth programs in the prime sponsor area for the purpose of improving the utilization and coordination of the delivery of such services. The council shall make recommendations based upon its analyses to the planning council.

(4) The youth council shall at a minimum make recommendations to the planning council with respect to the planning and review of all program activities under Title III, Part C, of the Act, and shall review the proposed agreements with local educational agencies under YETP.

(5) No member of the youth council shall cast a vote on any matter under deliberation by the youth council which has a direct bearing on services to be provided by that member (or any organization with which that member is associated).

(c) *Community-based organizations (CBO's).* (1) Each eligible applicant shall involve CBO's in the planning process as follows:

(i) CBO's of demonstrated local effectiveness in the delivery of employment and training services to youth shall actively participate in the planning process; and

(ii) Public notification of the proposed youth plan will be provided to CBO's through appropriate media.

(2) Special consideration shall be given to CBO's of local demonstrated effectiveness in the delivery of employment and training services to youth. Special consideration shall consist of the following:

(i) Thirty (30) days prior to submission of the proposed youth plan to the RA either the complete youth plan or a summary of the proposed youth plan will be submitted to such CBO's. If a summary is submitted, it shall include at a minimum:

(A) Information on the emphases of the program; and

(B) Proposed service deliverers and the services to be provided by each; and

(ii) Any comments received must be considered prior to the submission of the youth plan to the RA and written responses will be made to any substantive comments from such CBO's regarding selection of service deliverers and these comments and responses will be included when the youth plan is transmitted to the RA.

(3) Each eligible applicant shall maintain documentation relating to selection of service deliverers for a minimum of 1 year.

(4) An eligible applicant may directly perform classroom training, on-the-job training or work experience as described in § 95.33(d)(1), (2), or (4) of this title, only if, after consultation with CBO's, the eligible applicant determines that direct operation of the program will promote the purposes of this subpart (sec. 342(b)). The eligible applicant shall document the administrative and programmatic benefits of such direct operation.

(d) *Appropriate labor organizations.* Each eligible applicant shall afford appropriate labor organizations an opportunity to participate in the development of its youth plan by giving them an opportunity to comment on either the full youth plan or a summary of the youth plan which includes at least any proposed job classifications and wage rates. The plan or summary shall be sent to the appropriate labor organizations at least 30 days prior to the submission of the youth plan to the RA, and any comments received must be considered prior to the submission of the youth plan to the RA.

(e) *Selection of service deliveries.* Except for in-school programs funded under the 22 percent LEA agreements and when the eligible applicant chooses not to deliver program activities, the selection of service deliverers for program activities shall consist of the following elements:

(1) A fair and open selection process;

(2) Announcement using appropriate media methods to bring the competition to the attention of community based and other eligible profit and nonprofit organizations;

(3) Use of published criteria to evaluate applications;

(4) Written notification to all applicants of subsequent funding or written explanation of the reasons for disapproval of funding; and

(5) Special consideration to community-based organizations of demonstrated effectiveness in the delivery of employment and training services.

§ 97.706 Content and description of the grant application.

In order to receive funds, each eligible applicant shall submit a youth plan which, when approved, together with the Prime Sponsor Agreement (PSA), shall become the grant. Additions to, or variations from the PSA, if any, shall be included in the youth plan. The youth plan shall also include the documents described in §§ 97.707 through 97.710

§ 97.707 Approval request letter.

Each eligible applicant shall submit an Approval Request Letter to the RA, by a date set by the RA.

§ 97.708 Application for Federal Assistance (Standard Form 424).

The Application for Federal Assistance shall identify the amount of funds requested and provide information on the number of people expected to be served.

§ 97.709 Narrative Description; program and planning forms; additional documentation.

(a) The narrative shall contain descriptions of:

(1) Objectives of the program;

(2) Local priorities;

(3) Implementation planning;

(4) Program activities and services;

(5) Management and administration;

(6) Results and benefits expected from the program;

(7) Program Planning Summary; and

(8) Budget Information Summary.

(b) The youth plan shall also include documentation which shows that:

(1) The planned expenditures for program activities will further the purpose of the program by:

(i) Developing long-term and coordinated solutions to the employment problems of youth, especially the economically disadvantaged;

(ii) Enhancing job prospects and career opportunities for youth; and

(iii) Enabling participants to secure appropriate unsubsidized employment (sec. 341);

(2) The identified performance goals in the youth plan are reasonable and can be achieved;

(3) A youth council has been established and the youth council has participated in the planning and review process for the youth plan;

(4) CBO's of demonstrated local effectiveness in the delivery of employment and training services to youth

have participated in the planning and have been given special consideration as set forth in § 97.705(c);

(5) Appropriate labor organizations have participated in the development of the youth plan as required by § 97.705(d);

(6) There is a description of the procedures to be used to notify the appropriate labor organizations and the RA of any changes to job classifications of wage rates;

(7) The eligible applicant has a proposed in-school program to be operated pursuant to § 97.717;

(8) With respect to youth plans from Governors, there is adequate justification for each proposed activity as defined in § 97.722; and

(9) The eligible applicant has coordinated with local SESA offices to the maximum extent feasible.

§ 97.710 Special assurances and certifications

(a) The youth plan shall contain the following special assurances:

(1) Compliance with the Prime Sponsor Agreement;

(2) Compliance with the Youth Employment and Demonstration Projects Act of 1977 (YEDPA), other applicable CETA provisions, and the regulations in this subpart;

(3) Compliance with the Hazardous Occupations Orders issued pursuant to the Fair Labor Standards Act and set forth at 29 CFR 570.50 et seq. with respect to the employment of youths under 18 years of age and the Child Labor Standards of 29 CFR 570.31 et seq. with respect to the employment of youths aged 14 and 15; and

(4) Assurance that local labor organizations who represent employees engaged in work similar to that proposed to be performed under this subpart are notified in writing of all wage rate and job classification changes.

§ 97.711 Youth Plan, review and approval.

(a) *Comments and publication procedures.* The procedures of § 95.15 of this title shall apply to YETP, except that, the RA shall establish a schedule for submission of the grant application which may include a request that a preliminary copy of the grant application be submitted to the regional office for review. However, the grant application cannot be executed until 30 days after submission of the plan to the appropriate organizations during which time comments can be submitted to the RA and prime sponsor.

(b) *Standards for reviewing the youth plan.* The provisions of § 95.17(a), (b)(1), (2), (3), (4), (6), (8), (9), (10), and (11) shall be followed by the RA in reviewing the youth plan. The RA shall also determine whether the youth plan meets the requirements of this subpart and that its documentation is adequate and sufficient.

(c) *Awarding the grant.* The procedures specified in §§ 95.18, 95.19, and 95.20 of this title shall apply to the awarding of grants under YETP.

§ 97.712 Modifications.

(a) The procedures specified in § 95.21 of this title shall apply to the modifying of a YETP youth plan.

(b)(1) Appropriate labor organizations and the RA must be notified in writing of all wage rate and job classification changes under the youth plan at least 15 calendar days prior to implementing such changes.

(2) If the appropriate labor organization disagrees with the proposed changes in job classifications or wage rates, the dispute must be resolved in writing prior to implementing such changes.

ADMINISTRATIVE PROVISIONS

§ 97.713 Adminstrative provisions.

The administrative provisions of Part 98 (Grant Administration) of this title shall be applicable to the operation of programs under this subpart, except as otherwise indicated in this subpart.

PROGRAM OPERATIONS

§ 97.714 Eligibility for participation.

(a) an eligible applicant shall assure that every individual participating in the program meets the following criteria at the time of application and enrollment, except as provided in § 97.715 (sec. 345):

(1) Unemployed as defined in § 94.4 (ggg) or underemployed as defined in § 94.4 (fff) of this title, or in-school as defined in § 97.702(f);

(2) 16 through 21 years of age; and

(3) A member of a family with a total family income at or below 85 percent of the lower living standard income level, as defined in § 94.4 (nnn) of this title.

(b) An eligible applicant shall assure that for the purpose of participating in in-school career employment experience, the youth needs such participation in order to continue his or her education (sec. 346(c)).

(c) An eligible applicant shall assure that if, at the time of enrollment into any other program under the Act, an individual met the eligibility requirements of paragraph (a) of this section, and is still age eligible, that individual is eligible to transfer from that other program into YETP, and into YETP career employment experience if the individual also meets the requirements of paragraph (b) of this section.

(d) An eligible applicant shall assure that the citizenship and veterans provisions of § 95.32(d) and (e)(1) of this title also apply to YETP.

(e) Programs funded under this subpart shall give preference to economically disadvantaged youth. Appropriate efforts shall be made to give service to those youth who have severe handicaps in obtaining employment, including but not limited to those who lack credentials, those who require substantial basic and remedial skill development, those who are women and minorities, those who are veterans of military service, those who are offenders, those who are handicapped, those with dependents, or those who have otherwise demonstrated special needs as determined by the Secretary (sec. 354(a)).

(f) No youth may enroll in full-time employment opportunities if the eligible applicant determines that there is evidence the youth dropped out of high school in order to participate (sec. 353(f)(2)).

(g) Wards of the court and offenders 14 through 21 years of age determined to have left the family unit or who otherwise do not have access to the benefits that family income would normally be expected to provide shall be treated as a family of one and only income generated by themselves shall be used in determining income status; such a determination shall be based on the certification by an assigned probation officer, or other responsible court official that the youth has lived at home 50 percent or less of the time in the last 6 months.

§ 97.715 Eligibility for participation (extraordinary).

(a) Individuals otherwise eligible under § 97.714, who are in school, and who are 14 or 15 years old may participate in programs under YETP when the youth plan specifies a youth development strategy which provides broad career exposure for these youths (sec. 345(a)(1)(B)).

(b) Youths need not meet the income criteria described in § 97.714(a)(3), if they participate in a special component, as described in § 97.716(d) (sec. 345(a)(2)).

(c) Youths, who do not meet the income criteria defined in § 97.714(a)(3), and who are not in a special component described in § 97.716(d), may be offered services but these services are limited to:

(1) Counseling, including occupational information;

(2) Occupational, education, and training information;

(3) Placement services;

(4) Job referral information through coordinated intake systems; and/or

(5) Assistance in overcoming employment related sex-stereotyping in job development, placement, counseling and guidance.

§ 97.716 Allowable activities and services.

(a) Programs may include any type of employment and training activity authorized under Title I of the Act, except public service employment.

(b) *Job description.* A written job description shall be developed and maintained for all work experience and on the job training positions funded under this subpart to provide a basis for determining their comparability to existing jobs of other individuals similarly employed.

(c) *Child labor.* The child labor standards specified in 29 CFR 570.31 et seq. or appropriate State standards, whichever are stricter, shall apply to the employment of 14 or 15 year olds under YETP. The Hazardous Occupations Orders issued pursuant to the Fair Labor Standards Act and set forth at 29 CFR 570.50 et seq. shall apply to the employment of 16 and 17 year olds under YETP.

(d) *Special component.* An eligible applicant may design a special component using up to 10 percent of its YETP funds to serve a mixture of youth from families above and below the income level specified in § 97.714(a)(3) in order to test the desirability of serving such a mix of youth. This special component shall:

(1) Have and follow a structured experimental design;

(2) Establish and use comparison groups;

(3) Provide for followup on participants; and

(4) Provide for an end of the year report on the experimental outcomes.

(e) *Vocational exploration.* An eligible applicant may conduct a vocational exploration program for the purpose of exposing youth to the operation and types of jobs available in the private sector through observation of such jobs and instruction including, where appropriate, limited practical experience.

(1) The following provisions shall apply to all locally funded vocational exploration programs.

(i) All contracts, subgrants, or written agreements between sponsors and other parties for the operation of such programs shall at a minimum assure that:

(A) Participants in a vocational exploration program using YETP funds shall receive allowances in accordance with the provisions of § 97.718(c)(2). Wages shall not be paid to participants;

(B) Other benefits shall be paid in accordance with § 98.24(a)(2) of this title;

(C) The program has received the approval of any labor organization representing employees in the affected collective bargaining units;

(D) Youth will not be assigned to vocational exploration opportunities which are the subject of a labor dispute involving a work stoppage.

(E) A detailed curriculum has been developed; and

(F) The program shall not displace currently employed workers or prevent the hiring of new workers.

(ii) Organizations which have a contract, subgrant or written agreement with a prime sponsor may be reimbursed only for the costs incurred in the conduct of the program, provided that payments to employers organized for profit are only made for the costs of training which are over and above those normally provided by the employer.

(2) Whenever opportunities are located with a private-for-profit organization, the prime sponsor shall assure, in addition to items listed in paragraph (e)(1)(i) of this section, that youth will not be involved in work experience or any other activity that contributes, or could be expected to contribute, to additional sales or profit for the private-for-profit organization or otherwise result in the subsidization of wages for the organization.

(3) Where a nationally funded vocational exploration program operates in a prime sponsor's area, the prime sponsor shall enter into an agreement with the local representative of the program which shall include provisions dealing with arrangements for recruitment, selection, referral and certification of the youth entering the nationally funded program.

§ 97.717 In-school programs.

(a) *Activities and services.* The in-school programs shall be designed to provide for either or both of the following two classifications of services (sec. 342):

(1) *Transition services.* (i) These transition services shall be designed to prepared and assist youth to move from school to unsubsidized jobs in the labor market.

(ii) These services may include, but are not limited to:

(A) Outreach, assessment, and orientation;

(B) Counseling, including occupational information and career counseling;

(C) Activities promoting education to work transition;

(D) Provision of labor market information;

(E) Services to youth to help them obtain and retain employment;

(F) Literacy training and bilingual training;

(G) Attainment of certificates of high school equivalency;

(H) Job sampling, including vocational exploration in the public and private sector;

(I) Institutional skills training;

(J) Transportation assistance;

(K) Child care and other necessary supportive services;

(L) Job restructuring to make jobs more responsive to the objectives of this subpart, including assistance to employers in developing job ladders of new job opportunities for youth, in order to improve work relationships between employers and youth;

(M) Provision of information regarding employment and training related opportunities;

(N) Job development, direct placement, and placement assistance to secure unsubsidized employment opportunities for youth to the maximum extent feasible, and referral to employability development programs;

(O) Assistance in overcoming sex-sterotyping in job development, placement, and counseling; and

(P) Outreach and other services to increase the labor force participation rate among minorities and women.

(2) *Career employment experience.* This activity is a combination of both well supervised employment (work experience or on-the-job training) and certain transition services including, at a minimum, career information, counseling, and guidance. Any work experience or on-the-job training must include those minimum ancillary transition services. Where work experience or on-the-job training is supported under the 22 percent or more of funds serving in-school youth under agreements with local educational agencies, the ancillary transition services must also include placement services.

(b) *Agreements with local educational agencies.* (1) Eligible applicants shall use at least 22 percent of their total funds to serve in-school youth in programs designed to enhance their career opportunities and job prospects (sec. 343 (d)(1)) pursuant to written agreements between them and local educational agencies (LEA's). The programs shall be operated in accordance with the provisions of sections 343 (d)(2) and 346(c) of the Act.

(2) Agreements may be between the eligible applicant and one or more local educational agencies or a combination of LEA's represented by one LEA, (sec. 702(a)).

(3) Each agreement may be either a financial or nonfinancial agreement and, whichever is determined most appropriate by the eligible applicant and the LEA(s), shall:

(i) Provide a description of the activities and services to be provided to eligible participants;

(ii) Detail the responsibility of each party to the agreement for providing the activities and services which have been selected;

(iii) Contain provisions to assure that services and/or funds received pursuant to the agreement will not

supplant State and local funds expended for the same purpose; and

(iv) Provide an assurance that the agreement has been reviewed by the youth council.

(4) Additional provisions are required in those agreements which specifically provide for career employment experience opportunities. These include:

(i) Assurances that participating youth will be provided constructive work experience, which will improve their ability to make career decisions and which will provide them with basic work skills needed for regular employment;

(ii) Assurances that job information, counseling, guidance, and placement services will be made available to participating youth and that funds provided under the agreement will be available to, and will be utilized by, the local educational agency or agencies to the extent necessary to pay the cost of school-based counselors to carry out the provisions of this in-school program;

(iii) Assurances that jobs provided under this program will be certified by the participating educational agency or institution as relevant to the educational and career goals of the participating youth;

(iv) Assurances that the eligible applicant will advise participating youth of the availability of other employment and training resources available in the local community to assist such youth in obtaining employment; and

(v) An assurance that career employment experience opportunities provided will be certified by a school-based counselor as being relevant to the career and educational program for the youth being provided those opportunities.

(5) In order to carry out the purposes of the LEA agreement, LEA's and prime sponsors, where appropriate, are encouraged to enter into subagreements, grants or contracts with post-secondary schools, with State accredited nonprofit educational institutions, State accredited profit institutions, SESA's and CBO's which have demonstrated effectiveness locally in serving youth, particularly those who are economically disadvantaged.

(6) Agreements for the use of the in-school funds under this section must be signed by the eligible applicant and local educational agencies no later than 60 days after initial submission of the YETP plan to the regional office for review and approval. This may be a new agreement or a certification that the existing agreement remains the same or that it is revised as described in attachments to the certification. All certification and revision information shall be included as part of the YETP grant documentation. If an agreement is not reached within 60 days, the RA shall initiate the reallocation process as required by § 97.704.

§ 97.718 Participant benefits.

(a) Each participant shall be provided the benefits and working conditions as provided in § 98.24 of this title.

(b) Participants in training activities shall be paid allowances. Participants in employment shall be paid wages. Participants in activities which are a combination of employment and training shall be paid in accordance with § 95.33(d)(7) of this title.

(c) *Allowances.* (1) Participants shall be paid allowances in accordance with § 95.34 of this title.

(2) Participants in a vocational exploration program using YETP funds shall receive allowances in accordance with § 95.34 of this title except, (i) only allowances may be paid for the vocational exploration portion of combined activities and (ii) participants receiving public assistance as defined in § 94.4(ss), or whose needs or income are taken into account in determining such public assistance payments to others, may receive a stipend as an additional allowance for participation in vocational exploration in the private sector (VEP) activities: *Provided*, That the participant's total allowances (the incentive allowance plus any stipend) does not exceed the basic allowances paid to other participants. This stipend is available to participants eligible for receipt of incentive allowances to provide for the exceptional expenses incurred by these participants which might otherwise prevent the individuals from participating in a VEP activity. Wages shall not be paid to participants.

(d) *Wages.* Participants receiving wages shall be paid no less than the highest of:

(1) The wage rate set forth in section 6(a)(1) of the Fair Labor Standards Act. Fourteen- and fifteen-year olds, however, may be paid the rate set forth in section 14(b) of the Fair Labor Standards Act; or

(2) The applicable State or local minumum wage, including exceptions for the wage rates of 14- and 15-year olds.

(3) The prevailing wage for a job which is substantially the same as existing jobs of the same employer, except that, the employer may pay less than its prevailing wage, but not less than the minimum wage, if:

(i) The employer, the eligible applicant and the appropriate labor organization agree in writing to a lesser wage; or

(ii) There is job restructuring. In order to accomplish job restructuring, the eligible applicant, employer, and appropriate labor organization, shall enter into an agreement concerning the restructuring. If, after agreeing to the restructured job, the labor organization, employer, or eligible applicant disagree over the wages to be paid for the restructured job and an agreement is not reached, the eligible applicant, employer, and appropriate labor organization should resolve such dispute at the local level within 30 days. If, after these 30 days, an agreement has not been reached, they shall either agree to negotiate in good faith with the RA to resolve the disagreement or select other jobs. If negotiations with the RA do not result in resolution within 30 days, the RA shall set the wage rate; or

(iii) The employer creates new job classifications or occupations. If disputes arise regarding whether the jobs are new to the employer, the eligible applicant, appropriate labor organization, and employer should attempt to resolve the issue within 30 days after the appropriate labor organization is informed of the "new" jobs. If no agreement can be reached within that time frame, they shall either agree to negotiate in good faith with the RA to resolve the disagreement, or select other jobs. If negotiations with the RA do not result in a resolution within 30 days, the RA shall make a determination as to whether or not the job is new to the employer; or

(4) The prevailing wage determined by the Secretary under the Davis-Bacon Act (See 29 CFR parts 1, 3, 5, and 7) in the case of jobs in projects to which the provisions of the Davis-Bacon Act, or any Federal law containing labor standards in accordance with the Davis-Bacon Act, apply. However, in the case of such projects financed under YETP and YCCIP under $5,000, the employer, eligible applicant, and appropriate labor organization may agree to pay youth participants not less than the applicable minimum wage and not more than the wage rate of the entering apprentice in the most nearly comparable apprenticeable trade, and to prescribe an appropriate ratio of journeymen to such participating youth to work on the project. If they cannot agree in 30 days, they may request a decision from the RA, or develop other jobs.

(e) Earnings received by any youth under YETP shall be disregarded in determining the eligibility of the youth's family for, and the amount of, any benefits based on need under any Federal or federally assisted programs (sec. 356).

(f) Because most jobs will be short-term and/or part-time work assignments, and are designed to enhance the employability of individuals who are new entrants who have never worked, or individuals who are new entrants who have not been working in the competitive labor market, most

jobs will be at entry level. Eligible applicants, therefore, are expected to pay the minimum wage whenever feasible.

§ 97.719 Maintenance of effort (sec. 353(b)).

(a) Youth plans shall reflect the purpose of this program to provide additional resources, activities, and services over and above the current level which will have a positive impact on the employment problems of youth.

(b) Funds provided under this subpart shall be used to supplement, rather than supplant, the level of funds that would otherwise be made available from non-Federal sources for the purpose of planning and administering programs and activities within the scope of this subpart.

(c) The following provisions also apply to activities funded under this program:

(1) They will not result in the displacement of currently employed workers;

(2) They will not substitute jobs assisted under this part for existing federally assisted jobs;

(3) They will not employ any youth when any person is on layoff by the employer from the same or any substantially equivalent job in the same area;

(4) They will not be used to employ any person to fill a job opening created by laying off or terminating the employment of any regular employee, or otherwise reducing the regular work force, in anticipation of filling vacancies by hiring youth to be supported under YETP;

(5) They will not infringe upon the promotional opportunities which would otherwise be available to persons currently employed in public sercice not subsidized under the Act;

(6) They will not permit a job to be filled in other than an entry-level position in each promotional line until applicable personnel procedures and collective-bargaining agreements have been complied with;

(7) Where job restructuring will occur or where new classifications will be developed, they will not be done in order to negate established personnel procedures or to displace currently employed workers.

§ 97.720 Substitution for title I programs.

Programs funded under YETP shall be supplementary to but not replace programs and activities for youth available under title I of the Act (§§ 95.13(b) (3) and 95.14(b)(3)(ii)(G)).

§ 97.721 Academic credit.

Eligible applicants shall make appropriate efforts to encourage educational agencies and postsecondary institutions to award academic credit for competencies participants gain from their participation in the program.

§ 97.722 Governors youth programs.

(a) *Activities and services.* The Governor shall use the funds allocated pursuant to § 97.703(b)(2) to provide statewide youth services such as the following (sec. 343(c)):

(1) To give special emphasis to funding expanded and experimental programs in apprenticeship trades, or development of new apprenticeship arrangements, in conjunction with business, labor unions, and State apprenticeship councils;

(2) To provide funds to carry out special model employment and training programs and related services between appropriate State agencies and an eligible applicant or eligible applicants, including contractors selected by eligible applicants, with particular emphasis on experimental job training in the private sector;

(3) To provide labor market and occupational information to eligible applicants and local educational agencies without reimbursement;

(4) To foster cooperative efforts between State and local institutions which provide occupational and career guidance and counseling, as well as placement services for in-school and out-of-school youth; and

(5) To fund employment and training programs as defined in § 97.716 for eligible youth who are under the supervision of the State.

(b) *Eligibility for participation.* Individuals participating in programs using funds allocated pursuant to § 97.703(b)(2) must meet the eligibility criteria provided in § 97.714 or § 97.715 (sec. 345).

(c) *Limitation of funds.* The overall 20 percent limitation of funds used for administration as set out in § 98.12(f)(6) shall not apply to the Governor's youth plan.

(d) *Governor's youth plan.* The Governor's youth plans shall include the following information:

(1) A request for approval letter; and

(2) Application for Federal assistance (standard form 424);

(3) The narrative, which shall include the following;

(i) A discussion of any support to be given for expanded and experimental programs in apprenticeable trades;

(ii) A description of efforts to provide employment and training opportunities for youth under the supervision of the State;

(iii) A description of the efforts the State will undertake in the development, analysis and dissemination of appropriate labor market information as it relates to youth;

(iv) A description of efforts to coordinate existing State services or institutions and those of the eligible applicant(s);

(v) A description of any experimental, model or demonstration programs to be operated by the State and, any plans to assist eligible applicants in the development or operation of such programs;

(vi) A description of expected results and benefits to be derived from specific program activities under the grant; and

(4) Youth planning summary and youth budget information summary:

(i) The youth planning summary requires a quantitative statement of planned enrollment levels, the participants to be served by each program activity, and planned outcomes for program participants. It shall also include an identification of the target groups within the youth population and the number of individuals in each to be served.

(ii) The youth budget information summary shall include a quantitative statement of yearly planned expenditures by cost category, planned quarterly obligations, and planned quarterly expenditures by program activity.

(e) *Special assurance and certifications.* The Governor's youth plan shall assure:

(1) Compliance with the Governor's agreement;

(2) Compliance with the Youth Employment and Demonstration Project Act of 1977 (YEDPA), other applicable CETA provisions, and the regulations in this subpart;

(3) Compliance with the provisions of section 343(c) of the Act; and

(4) Compliance with the hazardous occupations orders issued pursuant to 29 CFR 570.50 et seq. with respect to the employment of youths under 18 years of age and the child labor standards of 29 CFR 570.13 et seq. with respect to the employment of youth aged 14 to 15.

(f) *Procedures for comment, modification and approval of Governor's youth plan.* (1) In developing the Governor's youth plan, the Governor shall establish a youth council as described in § 97.705(b) which shall report to the State Manpower Services Council (SMSC) described in § 95.13(d) of this title. The responsibilities of these councils shall be those described in § 95.13(d)(4) of this title. The references to local agencies in § 97.705(b)(1) shall mean representatives of State agencies who represent statewide concerns.

(2) In submitting the Governor's youth plan, the procedures specified in § 95.52(a) (c) and (d) of this title shall be followed except the preapplication procedures in § 95.52(a)(2) and the preapplication provisions in §§ 95.11 and 95.15(d), which are referenced in § 95.52 do not apply.

(3) Approval procedures to be followed for the Governor's youth plan are as specified in § 95.53 of this title, except that the provision in § 95.17(b)(7), referenced in § 95.53, does not apply.

(4) The modification procedures specified in § 95.54 of this title shall be used to modify Governor's grants under YETP.

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

ERNEST G. GREEN,
Assistant Secretary for Employment and Training.

[FR Doc. 78-26979 Filed 9-25-78; 8:45 am]

federal register

TUESDAY, SEPTEMBER 26, 1978
PART IV

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institute of Education

■

EDUCATIONAL EQUITY RESEARCH GRANTS PROGRAM

Final Rule for Awarding Federal Funds

[4110-39]

Title 45—Public Welfare

CHAPTER XIV—NATIONAL INSTITUTE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 1490—EDUCATIONAL EQUITY RESEARCH GRANTS PROGRAM

Final Rule for Awarding Federal Funds

AGENCY: National Institute of Education (NIE), Department of Health, Education, and Welfare.

ACTION: Final rule.

SUMMARY: This rule governs a discretionary program of field-initiated research in several areas of educational equity inquiry. These areas focus on individuals who: (1) Are participating in the process of school desegregation; (2) have limited or no knowledge of English; (3) have not received equal educational opportunities due to ethnic or racial minority membership; or (4) are restricted by sex-role stereotypes. This rule states eligibility requirements, funding criteria, and other rules for the administration of the program; it defines categories of projects to be funded and the competitive procedures and standards for funding the best proposals.

EFFECTIVE DATE: This regulation becomes effective 45 days after it is transmitted to Congress unless Congress disapproves the regulation or takes certain adjournments. If you want to know the effective date of this regulation, call or write the National Institute of Education contact person.

FOR FURTHER INFORMATION CONTACT:

Richard Werksman, Regulations Officer, Office of Administration, Management and Budget, National Institute of Education, Room 639—Mail Stop 33, 1200 19th Street, NW., Washington, D.C. 20208, 202-254-7924.

SUPPLEMENTAL INFORMATION: Under the authority of section 405 of the General Education Provisions Act, as amended (20 U.S.C. 1221e), a notice of proposed rulemaking which set forth proposed procedural and substantive requirements and criteria governing the submission and review of applications for funds under the educational equity research grants program was published in the FEDERAL REGISTER on April 6, 1978 (43 FR 14634). Interested persons were invited to submit written comments concerning the proposed rule. Seven persons submitted comments. Listed below are the comments received and the responses made.

A. BACKGROUND

The substantive research areas covered by this regulation will further the goal of educational equity and will focus on those individuals who are not well served by the Nation's educational systems and schools. It is intended that each award will produce knowledge to help determine how every person can best achieve an education of high quality regardless of race, color, religion, sex, national origin, or social class.

B. DISCUSSION OF COMMENTS

1. Two commenters suggested that the use of the expression, "exemplary methods" in one of the eligible project areas (§ 1490.5(a)(2) Desegregation) but not in the other three substantive areas, may create an impression that the Institute is not interested in funding research on exemplary methods for achieving equity in those other areas.

The Institute is interested in supporting exemplary research in all four substantive areas (so long as the project does not have as its primary purpose the kind of activities deemed ineligible under § 1490.6). The use of the expression "exemplary methods" was used as an example and was intended only to be illustrative and not restrictive. No change in the regulation is required.

2. Two commenters asked whether social class is an area of possible research under this program since the item is used only in § 1490.2, Purpose.

The Institute considers social class to be an eligible element for research within all the substantive areas described in § 1490.5. This intention is set forth clearly in the second paragraph of § 1490.2. For exemple, research focusing on bilingual education may study the relationship between social class and the need for bilingual education. No further clarification is deemed necessary.

3. One commenter suggested the addition of a fifth area of competition which would address barriers to educational equity. This area would include any aspect of educational research concerning barriers to educational equity for minorities, such as problems related to labelling or stereotyping educational environments that are populated by minorities; discrimination; or the function of standardized tests in excluding minorities from educational opportunities in speciality high schools, in colleges, and in professional schools.

Section 1490.5 identifies four eligible substantive areas. We believe that these four areas adequately cover the interests described by this commenter, so that the addition of a fifth category is unnecessary.

C. DRAFTING INFORMATION

The principal author of this regulation is Martin O. Milrod, of the former Educational Equity Group. Individuals from educational and research communities also participated extensively in developing this regulation. Copies of the proposed rulemaking were mailed to almost 3,000 institutions, organizations, and individuals.

APPLICATION INFORMATION: The publication of this final rule is not an invitation to submit applications. A notice of closing date of May 31, 1978, for fiscal year 1978 applications was published in the FEDERAL REGISTER on April 6, 1978 (43 FR 14634). Applications, instructions, and program information were provided by the program staff, of the educational equity research grants program, National Institute of Education, 1200 19th Street NW., Washington, D.C. 20208. Telephone, 202-254-5170.

(Catalog of Federal Domestic Assistance No. 13.950, Educational Research and Development.)

Dated: August 11, 1978.

PATRICIA ALBJERG GRAHAM,
Director,
National Institute of Education.

Approved: September 19, 1978.

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

Title 45 of the Code of Federal Regulations is amended by adding to subchapter B of chapter XIV, a new part 1490 reading as follows:

Sec.
1490.1 Scope.
1490.2 Purpose.
1490.3 [Reserved]
1490.4 Applicant eligibility.
1490.5 Eligibility projects.
1490.6 Ineligible projects.
1490.7 Application requirements.
1490.8. Review of applications.
1490.9. Project duration.

AUTHORITY: Sec. 405, General Education Provisions Act, as amended (20 U.S.C. 1221e).

§ 1490.1 Scope.

(a) This part establishes procedures, substantive requirements, and criteria governing the submission and review of applications for funds under the educational equity research grants program.

(b) Each grant under this program is subject to applicable provisions of subchapter A of this chapter (general provisions for National Institute of Edu-

cation (NIE) grants relating to fiscal, administrative, and other matters) (45 CFR Parts 1400–1424), except to the extent that such provisions are inconsistent with, or expressly made inapplicable by, the provisions of this part.

§ 1490.2 Purpose.

The purpose of the educational equity research grants program is to further the goal of educational equity by supporting research and development studies in the substantive areas described in § 1490.5.

It is intended that each award will produce knowledge to help determine how every person can best achieve an education of high quality regardless of race, color, religion, sex, national origin, or social class.

§ 1490.3 [Reserved]

§ 1490.4 Applicant eligibility.

(a) Colleges, universities, State and local educational agencies, other public or private agencies, organizations and groups, and individuals are eligible to apply.

(b) Applications from for-profit organizations must be submitted in accordance with criteria specified in this part and in Department of Health, Education, and Welfare (HEW) procurement regulations, subpart 3–4.52 (41 CFR Parts 3–4), and, if successful, are awarded contracts rather than grants.

§ 1490.5 Eligible projects.

(a) *Eligible research and development areas.* An application under this part must propose research or development in no more than one of the following substantives areas:

(1) *Educational equity theories.* This area includes research to develop better educational opportunity theories (including different definitions of equity and ways in which they are applied and with what results). These theories foster the kinds of analyses leading to public policies aimed at reducing the barriers faced by women and minorities in achieving equality of educational opportunity.

(2) *Desegregation.* This area includes any aspect of desegregation efforts, such as exemplary methods of educating students in desegregated settings and barriers to successful desegregation of institutions and systems of higher education.

(3) *Multicultural/bilingual education.* This area includes:

(i) Educational problems of students (A) who do not speak English, or have limited English speaking ability; (B) who speak nonstandard English; or (C) whose culture differs significantly from the majority of students in the United States, or

(ii) How all children may improve their educational opportunities through multicultural/bilingual education.

(4) *Barriers to women's educational equity.* This area includes any aspect of educational research concerning barriers to educational equity for women, such as, the problems related to sex-role stereotyping and discrimination, the special problems minority women face in obtaining equal educational opportunities and leadership positions, and the particular social and educational processes contributing to inequities and ways to eliminate such problems.

(b) *Eligible research processes.* Projects that involve research or development in one of the selected areas described in paragraph (a) of this section may be carried out using any research or development process other than those specified in § 1490.6.

(c) *Selection of areas to be funded.* In the announcement of a closing date for each research grants competition conducted under this program, the director shall indicate which of the areas described in paragraph (a) of this section will be included in that competition.

§ 1490.6 Ineligible projects.

A project whose primary purpose is the operation, development or demonstration of specific programs or materials is not eligible for support under this part. Examples of ineligible projects include:

(a) Operation of an educational program;

(b) Improvement of an educational program through the implementation of a new or improved instructional, administrative, or managerial procedure, technique, material, training, or piece of equipment;

(c) Course development through the production of a new curriculum, or the improvement of an existing curriculum, including the preparation of new instructional material or the modification of instructional material already in existence;

(d) Development or adaptation in an operational setting of any new or improved instructional, administrative, or managerial procedure, technique, material, training, or piece of equipment;

(e) A demonstration project which shows, exhibits, describes, or explains to others, either in person or through various other communication media, the procedure, technique, and/or material which must be employed in the execution of a new or modified instructional task, educational program, or administrative or management process.

§ 1490.7 Application requirements.

An applicant shall submit an application in the form and in such detail as the Director shall require.

§ 1490.8 Review of applications.

(a) *Substantive areas.* In each research grants competition announced under this program, each application will be evaluated in competition with other applications submitted in the same substantive area. The Director will seek to distribute awards equitably among the substantive areas selected in accordance with § 1490.5(c).

(b) *Criteria for evaluation.* Evaluation of applications will be based upon the following criteria:

(1) Evidence of sensitivity to and awareness of minority and women's concerns as shown by efforts to provide equal employment opportunities, or other exemplary projects.

(2) Significance of the proposal to educational equity and the likelihood of significantly increasing the knowledge base if the project is successful.

(3) Technical quality of the proposal, based upon:

(i) The quality of the research design, methodology, and where appropriate, instrumentation;

(ii) The extent to which the proposal exhibits thorough knowledge of pertinent previous work; and

(iii) The quality of the research evaluation design and the dissemination plan.

(4) Organizational and staff qualifications, based upon:

(i) The experience, previous research, and background of the principal investigator(s);

(ii) The adequacy of facilities and arrangements available for the project, including evidence of access to necessary organizations, groups, and individuals for study or research purposes; and

(iii) The willingness of study populations to participate in the research proposal, as appropriate.

(5) Probability of successful completion of the project, based upon:

(i) The overall balance of tasks to be performed and the adequacy of resources to perform these tasks, including budgetary, personnel, and design considerations;

(ii) The estimated cost of the project in relationship to the anticipated results.

(c) *Inapplicable criteria.* Evaluation criteria set forth in § 1403.10 of this chapter shall not apply to applications submitted under this part.

§ 1490.9 Project duration.

Funded projects normally will not exceed 12 months in duration.

[FR Doc. 78-26977 Filed 9-25-78; 8:45 am]

federal register

TUESDAY, SEPTEMBER 26, 1978
PART V

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

■

COINSURANCE FOR PRIVATE MORTGAGE LENDERS

Proposed Eligibility Requirements, Contract Rights and Obligations

[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[24 CFR Part 255]

[Docket No. R-78-574]

COINSURANCE FOR PRIVATE MORTGAGE LENDERS

Proposed Eligibility Requirements, Contract Rights and Obligations

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, (HUD).

ACTION: Proposed rule.

SUMMARY: The Department hereby proposes to amend 24 CFR by adding a new part 255 entitled, "Coinsurance for Private Mortgage Lenders." This part would implement a coinsurance program limited solely to mortgage loans covering existing multifamily projects made by private mortgage lenders utilizing the authority contained in section 223(f) of the National Housing Act, as amended, and would impose requirements for that program. The demonstration program authorized by section 244 is intended to assure more careful initial evaluation of existing projects by lenders who are willing to accept some, but are unwilling to accept all, of the risk of mortgage lending for rental housing projects.

DATES: Comments due: (November 13, 1978).

ADDRESSES: Communications should be identified by the above docket number and title and should be filed with 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. All relevant material received in the foregoing office will be considered before a final rule is adopted. Copies of written views or comments will be available during regular business hours at the foregoing office.

FOR FURTHER INFORMATION CONTACT:

Shelly Friedman, Office of the Deputy Assistant Secretary for Insured and Direct Loan Programs, HUD, Washington, D.C., 202-755-6495. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Section 307 of the Housing and Community Development Act of 1974 (Pub. L. 93-383) amended the National Housing Act by adding a new section 244 entitled Coinsurance. Section 244 of the National Housing Act (12 U.S.C. 1715z(9)) established a program which authorizes the Secretary of Housing and Urban Development to insure and make a commitment to insure, under any provision of title II of the National Housing Act, any mortgage otherwise eligible for insurance under such provisions pursuant to a coinsurance contract providing that the lender will (1) assume a percentage of any loss and (2) carry out (subject to audit, exception of review requirements) such credit approval, appraisal, inspection, commitment, property disposition or other functions as the Secretary approves.

Regulations issued on February 12, 1976, and contained in 24 CFR 204 implemented the demonstration program of coinsurance authorized by section 244 for mortgages covering one-to-four family dwellings.

On September 29, 1976, the Department amended 24 CFR by adding a new Part 250 entitled "Coinsurance for State Housing Finance Agencies." This part implements a demonstration program of coinsurance for mortgages covering multifamily projects financed by State Housing Finance Agencies.

The Department hereby proposes to amend 24 CFR by adding a new part 255 entitled "Coinsurance for Private Mortgage Lenders." This part would implement a coinsurance program limited solely to mortgage loans covering existing multifamily projects made by private mortgage lenders utilizing the authority contained in Section 223(f) of the National Housing Act, as amended, and would impose requirements for that program.

The Department remains concerned about permitting participating depository institutions to coinsure refinanced mortgages which they presently hold in portfolio. The basis for this concern is that the program design contained herein provides no mechanism to deter a depository institution from refinancing and coinsuring the existing indebtedness on its own lesser-quality mortgages it presently holds. The Department does not believe that the Congress intended section 244 of the National Housing Act to be so used. Therefore, the Department will continue to consider incorporating deterrents against such a practice into these regulations, and specifically requests comments on the issue. Such deterrents under consideration include: (1) An outright ban on coinsuring refinancing transactions on mortgages already held by the coinsurer; (2) a percentage ceiling for such mortgages within the coinsurance portfolio of the depository institution; or (3) Pre-commitment review of such mortgage transactions by the field office, with necessary standards developed to guage appraisal values and risk determination.

A finding of inapplicability of section 102(2)(C) of the National Environmental Policy Act of 1969 has been made in accordance with HUD Handbook 1390.1 with respect to these proposed regulations. A copy of this finding of inapplicability will be available during regular business hours at the Office of the Rules Docket Clerk, at the address set forth above.

Comments are requested from interested persons on the impact the program authorized by this part might have on the mortgage market, the availability of mortgage credit to borrowers dependent on mortgage insurance provided under sections of the National Housing Act other than section 244, and the flow of credit to older declining areas and purchasers of older and low-cost housing. This comment period will provide the mortgage lending industry an adequate opportunity to make its views known and those comments shall be considered as due consultation with the industry as required by section 244 of the National Housing Act. Section 255.2 provides notice that the Department has met its statutory obligations concerning such consultations, and will be adopted as stated upon final publication. All comments from the industry and any other interested persons on these areas as well as others will be carefully considered before final regulations are adopted.

It is hereby certified that the economic and inflationary impacts of these proposed regulations have been carefully evaluated in accordance with Executive Order 11821.

It is proposed to amend chapter II, subchapter B, of Title 24 CFR by adding a new part 255 as set forth below:

PART 255—COINSURANCE FOR PRIVATE MORTGAGE LENDERS

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255.4 Effect of availability of coinsurance on insurance otherwise authorized.
255.5 Effect of availability of coinsurance on flow of mortgage credit to older, declining areas.
255.6 Safeguards for consumers.
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AMENDMENTS

255.430 Effect of amendments.

AUTHORITY: Section 244 of the National Housing Act, 12 U.S.C. 1715z(9).

Subpart A—General Provisions

§ 255.1 Purpose.

(a) Section 307 of the Housing and Community Development Act of 1974 amended the National Housing Act by adding a new section 24 entitled, "Coinsurance." Section 244 authorizes the Secretary of Housing and Urban Development to insure and make a commitment to insure, under any provision of title II of the National Housing Act, any mortgage otherwise eligible for insurance under such provisions, pursuant to a coinsurance contract providing that the lender will (1) assume a percentage of any loss and (2) carry out (subject to audit, exception, or review requirements) such credit approval, appraisal, inspection, commitment, property disposition or other functions as the Secretary approves.

(b) Section 311 of the Housing and Community Development Act of 1974 also added a new section 223(f) to the National Housing Act. Section 223(f) authorizes the Secretary to insure a mortgage executed in connection with the purchase or refinancing of an existing multifamily project.

(c) It is intended that a demonstration coinsurance program under section 244 to provide insured financing or refinancing for existing housing will assist in the conservation of neighborhoods and existing housing resources. By placing some of the risks, which HUD now assumes when insuring mortgages on approved private mortgage lenders, the demonstration program authorized by section 244 could help to assure more careful initial evaluation of existing projects by lenders who are willing to accept some, but are unwilling to accept all, of the risk of mortgage lending for rental housing projects. It could also make feasible assumption by lenders of the processing responsibilities incidental to a mortgage insurance program and perhaps reduce the present length of time required to approve applications for mortgage insurance.

(d) Congress, in enacting section 307 of the Housing and Community Development Act of 1974, which authorized the program which would be implemented by this part, made clear that it was concerned that implementation of this program not disrupt the mortgage market or reduce the availability of mortgage credit to borrowers who depend on mortgage insurance authorized under provisions of the National Housing Act other than section 244. The Congress also indicated its concern that in delegating mortgage insurance processing duties to lenders, physical inspections of dwelling units be continued in accordance with the same standards used under the regular FHA program. To accord with these concepts, this part sets forth the Department's regulations describing a coinsurance program for mortgages on existing multifamily projects underwritten by private mortgage lenders.

(e) In recognition of the capabilities of private lenders, these regulations vest the maximum amount of processing responsibilities with these lenders and to the maximum extent permissible under the statutes authorizing this program, permit these lenders to retain autonomy in their underwriting practices.

(f) The authority for the program to be implemented by this part expires on September 30, 1978. No mortgage shall be insured pursuant to this part after the Secretary's authority to insure pursuant to this part shall have expired, except pursuant to a commitment to insure made before that date.

§ 255.2 Effect of implementation of program on mortgage market.

Section 244 of the National Housing Act requires that no contract of coinsurance will be entered into under this part until the Secretary has, after due consultation with the mortgage lending industry, determined that the program described in this part will not disrupt the mortgage market or reduce the availability of mortgage credit to borrowers who depend upon mortgage insurance provided under provisions of the National Housing Act other than section 244. The mortgage lending industry has received adequate opportunity through the public comment period which was devoted to these regulations when proposed to make its views known and the issuance of these

regulations shall be considered a determination that no adverse effects on the mortgage market are reasonably predictable from such an issuance. The Department intends, however, to continuously monitor the impact of this program and to consider evidence submitted at any time which would tend to suggest that disruptions in the mortgage market or reduced availability of mortgage credit to borrowers are causally related to the availability of coinsurance under this part.

§ 255.3 Utilization of existing multifamily insurance authorities.

Mortgages for multifamily projects which meet the requirements for eligibility of this part shall be insured under section 207 pursuant to section 223(f) and pursuant to section 244 of the National Housing Act and the regulations implementing those sections as set forth in this part.

§ 255.4 Effect of availability of coinsurance or insurance otherwise authorized.

No insurance authorized under any provision of the National Housing Act other than section 244 of that Act shall be withdrawn, denied, or delayed by reason of the availability of insurance under the program authorized by this part.

§ 255.5 Effect of availability of coinsurance on flow of mortgage credit to older, declining areas.

Insurance will continue to be available under this part only to the extent the Secretary has determined that the availability of insurance authorized by this part does not adversely affect the flow of mortgage credit to older, and lower-cost housing. Insurance authorized by this part will not be available for mortgages on properties which are eligible to be insured solely pursuant to the authority of section 223(e) of the National Housing Act.

§ 255.6 Safeguards for consumers.

(a) The inspection of repairs and improvements on projects covered by mortgages approved for coinsurance prior to the beginning of repairs under this part shall be conducted in accordance with the intent of the standards and criteria set forth in subpart S of part 200 of this chapter and used with respect to dwellings or projects approved for mortgage insurance under provisions of title II of the National Housing Act other than section 244.

(b) The National Environmental Policy Act of 1969, as amended, is applicable to major Federal actions proposed pursuant to this part.

(c) Part 403 of this chapter, providing for Federal preemption of local rent control, is not applicable to a project coinsured under this part.

§ 255.7 Definition of private lender.

To be an eligible mortgagee under this part, the institution must be a savings bank, a savings and loan association, a commercial bank, or other such depository institution whose deposits are insured by the Federal Deposit Insurance Corporation, by the Federal Savings and Loan Insurance Corporation, or by an agency or instrumentality of a State.

Subpart B—Approval of Private Lender as Coinsurer

§ 255.101 Review of operation prior to approval as coinsurer.

Approval of a private lender as defined in § 255.7, as a coinsurer of mortgage loans, eligible to underwrite and service mortgages on multifamily projects for coinsurance, will be made for lenders who have requested approval and who are currently approved as mortgagees under the provisions of §§ 203.2 and 203.4 of this chapter, after a review of the lender's operations by HUD as prescribed in § 255.102 of this part.

§ 255.102 Technical review prior to approval as a coinsurer.

A lender's technical staff and procedures must undergo a review prior to being approved as a coinsurer. As part of this review, the following special requirements are necessary for certification as an approved coinsurer eligible to underwrite mortgages for multifamily projects under this part:

(a) It shall provide a written opinion of its Counsel that it has the necessary powers to participate in the program authorized under this part;

(b) It shall submit such evidence as the Commissioner may require regarding a net worth, surplus accounts, equity capital or other similar category satisfactory to the Commissioner of at least $1,000,000, and evidence that its assets, which must be acceptable to the Commissioner, are properly proportioned to its liabilities and are adequate for the character and extent of its intended operations;

(c) It shall submit evidence to the Commissioner that it has the ability, either through technical staff employed by it, or through contracts with persons not on the lender's staff, for discharging full mortgage underwriting, servicing and property disposition functions in a manner which is consistent with the requirements of this part.

(d) It shall submit to periodic auditing and review by the Commissioner, the Inspector General or the Comptroller General of the United States with respect to its participation in the program authorized by this part.

(e) It shall submit its most recent detailed audit report of its books made by an independent certified public accountant selected in accordance with applicable State law or procedures supplemented by such additional information as the Commissioner shall request;

(f) It shall file with the Commissioner similar annual audits (1) within such period of time required pursuant to applicable State law and procedures or (2) within 75 days of the closing of its fiscal year so long as it continues as an approved lender;

(g) It shall promptly notify the Commissioner of any adjustments in its processing procedures which take place after its certification as an approved lender and shall make no adjustments in its processing procedures that are inconsistent with the requirements of this part;

(h) It shall have in its immediate employ a technical staff consisting of at least one individual who is knowledgeable in the area of construction, one in underwriting skills and one who is skilled in the management and disposition of multifamily projects;

(i) It shall have in its immediate employ staff with sufficient professional and technical competence to monitor the performance of any work it contracts to have done by persons not in the lender's employ such as appraisals, cost, credit analysis, architectural, engineering and management services;

(j) All appraisers assigned by the lender to determine the value of properties intended to serve as security for coinsured mortgages must adhere to minimum standards of education and experience established by the Commissioner;

(k) It shall file with the Commissioner satisfactory proof that it has the capacity to service mortgages coinsured pursuant to this part.

(l) It shall abide by all applicable requirements issued by the Commissioner for discharging its mortgage underwriting, servicing and property disposition functions pursuant to this part.

§ 255.103 Duration of approval.

Initial certification of a private lender as an approved coinsurer under § 255.102 of this part will be valid until the Secretary's authority to coinsure pursuant to this part shall have expired, unless such approval is withdrawn pursuant to the provisions of § 255.104 of this part.

§ 255.104 Withdrawal of approval.

The Commissioner may refrain from endorsing a credit instrument for mortgage insurance authorized by this part with respect to any project proposed for coinsurance by a private lender which has been given written notice by the Commissioner that its approval as a coinsurer under this part

has been suspended or withdrawn. Certification as an approved lender under this part may be suspended or withdrawn pursuant to the provisions of part 24 of this title for any of the following causes:

(a) Failure to maintain satisfactory capital funds or sturcture;

(b) Failure to perform underwriting, servicing, or property disposition functions consistent with the requirements of this part; as evidenced by, among other things, a coinsurer's ratio of coinsured loans in default or in forebearance in relation to its entire coinsured portfolio;

(c) Failure to discharge its responsibilities under a coinsurance contract;

(d) Transfer of a coinsured mortgage to a lender not approved under this part;

(e) Failure to segregate all escrow funds received from mortgagors on account of ground rents, taxes, assessments and insurance premiums, and to deposit such funds to a special account or accounts;

(f) Use of escrow funds for any purpose other than that for which they were received;

(g) Payment by the lender of any fee, kickback, or other consideration, directly or indirectly, in connection with any insured mortgage transaction or transactions to any person including an attorney, escrow agent, title company, consultant, mortgage broker, seller, builder, or real estate agent if such person has received any other payment or other consideration from the mortgagor, the seller, the builder, or any other person for services related to such transaction or transactions or from or related to the purchase or sale of the mortgaged property, except that compensation may be paid for the actual performance of such services as may be approved by the Commissioner.

(h) Such other reasons as the Commissioner determines to be justified in accordance with part 24 of this title, by action of the agency review board established by part 25 of this title or § 203.7 of this chapter.

(i) A principal whose participation in a proposed project has been disapproved and whose request for reconsideation has resulted in confirmation of the disapproval may appeal under section 24.10 of this title.

§ 255.105 Effects of withdrawal of approval as a coinsurer on insurance commitments made by the coinsurer while it was approved.

Withdrawal or termination of a private lender as an approved coinsurer under this part will not affect any mortgage or the insurance of any mortgages accepted for insurance while the lender was an approved coinsurer.

§ 255.106 Mortgage servicing and obligations during coinsurance period.

Servicing functions during the period when the Commissioner is a coinsurer of the mortgage shall be performed only by the lender, except that the lender may elect to delegate servicing to another entity if the lender retains its obligations under this part. However, the lender may not transfer its risk of loss which would result from default of a coinsured mortgage through reinsurance or otherwise.

§ 225.107 Required regulatory agreement with mortgagors.

(a) The lender and the mortgagor shall effect an agreement whereby the mortgagor, as further consideration for the making of the mortgage loan, contracts with the lender that it will fulfill the provisions of subpart C, §§ 255.222 through 255.226. Such regulation or restriction will be in the form of a regulatory contract between the mortgagor and the lender which shall be responsible for enforcing the provisions of the regulatory contract.

(b) The lender may regulate and restrict the mortgagor, as long as the commissioner and the lender are coinsurers of the mortgage, on such other matters as may be required by the lender as conditions for lending which do not conflict with the requirements of the Commissioner under this part.

Subpart C—Eligibility Requirements Applicable to Mortgages Insured Under Section 207 Pursuant to Section 223(f)

§ 255.201. Application.

The application for a commitment to make a coinsured mortgage loan on a project shall be submitted to the lender, as agent for the Secretary, by the sponsor of such project accompanied by such exhibits as may be required by the lender to enable the lender to comply with requirements for coinsurance of the mortgage established under this part. An application for a commitment to make a mortgage loan may be required by the lender prior to the submission of the application contemplating mortgage insurance.

§ 255.202 Application fees, inspection fees, and service charges.

The lender may collect from the mortgagor such application fees, inspection fees, and initial service charges as it may require to reimburse itself for the cost of processing an application, conducting inspections, and closing a mortgage transaction. In no event will the total fees be permitted to exceed those allowed in the fully-insured section 223(f) program.

§ 255.203 Processing and commitment.

The lender shall, as agent for the Secretary, perform all of the processing, including the issuance of both conditional and firm commitments, and make all of the determinations of the eligibility of a mortgage for coinsurance under this part except for environmental clearances under HUD handbook 1390.1 done by HUD field offices prior to issuance of a conditional commitment. Upon completion of all required repairs and improvements and receipt by the Commissioner of the lender's certification that the terms and conditions of the commitment for coinsurance have been satisfied, the Commissioner shall promptly endorse the credit instrument for insurance. The commitment to insure upon completion shall be effective for 18 months. The term of the commitment may be extended or may be amended in such a manner as the lender may prescribe from time to time pursuant to an application to the Commissioner for such extension or amendment of said commitment, which application shall be acted upon by the Commissioner and returned to the lender promptly after receipt thereof. An expired commitment may be reopened if a request for reopening is received by the lender from the mortgagor within 90 days of the expiration of the commitment and the Commissioner shall act upon the application for reopening of such expired commitment in the manner prescribed for amendment or extension of commitments herein above set forth.

Eligible Mortgages

§ 255.209 Mortgage provisions.

(a) The mortgage shall be:

(1) Executed on a form approved by the Commissioner for use in the jurisdiction in which the property covered by the mortgage is situated, which form shall not be changed without the prior written approval of the Commissioner.

(2) Executed by a mortgagor with the qualifications as provided by this subpart.

(3) A first lien on property that conforms with the intent of the property standards prescribed by the Commissioner.

(b) In the case of cooperative mortgagors, the mortgage shall provide that the mortgagor will not arrange for management of the property except in the manner and under an agreement approved by the lender and the Commissioner in writing.

§ 255.210 Mortgage lien and other obligations.

A mortgagor shall certify at endorsement of the loan for insurance and the lender shall determine that:

(a) The property covered by the mortgage is free and clear of all liens other than the insured mortgage and such other liens as may be approved by the lender, in accordance with standards established by the Commissioner. Liens other that the insured mortgage which may be approved (other than liens of taxes and assessments of the State or subdivisions of the State not yet due and payable, or ground rents) may not have under applicable law a priority equal or superior to the insured mortgage.

(b) There will not be outstanding unpaid obligations contracted for in connection with the mortgage transaction, the purchase of the mortgage property, or the repairs and improvements to the project, except obligations approved by the lender, in accordance with standards established by the Commissioner. Obligations of the mortgagor shall be approved by the lender under this section only if such obligations are determined by the lender to be of a lesser priority for payment than the obligation of the insured mortgage.

(c) When a loan is made to finance the purchase of an existing multifamily housing project, the mortgagor may not have any additional obligations in connection with the transaction which exceed the lesser of:

(1) Seven and one-half percent of the lender's estimate of value as defined in § 225.211(b), or

(2) seven and one-half percent of the cost of acquisition as defined in § 255.211(d).

(d) When a loan is made to refinance an existing multifamily housing project, the mortgagor may not have any additional obligations in connection with the transaction which exceed the lesser of:

(1) Seven and one-half percent of the lender's estimate of value, or

(2) Fifty percent of the difference between the cost to refinance as defined in § 255.211(c)(2) and the maximum mortgage amount as determined by the lender.

(e) The additional obligations, if any, provided for in paragraphs (c) and (d) of this section shall be represented by promissory notes on forms approved by the Commissioner. Such notes shall not be due and payable until the maturity date of the mortgage to be insured pursuant to this part, but may be prepaid from surplus cash and in accordance with the conditions prescribed in the regulatory agreement between the lender and the mortgagor.

§ 255.211 Maximum mortgage amounts.

In addition to the limitations in paragraphs (c) and (d) of this section, a mortgage may not involve a principal obligation in excess of the lessor of the following:

(a) *Dollar limitations on units.*

(1) The total of the amounts per family dwelling unit for other than elevator type structures (excluding exterior land improvements as defined by the Commissioner) depending upon the number of bedrooms, which may be: $19,500 per family unit without a bedroom. $21,600 per family unit with one bedroom. $25,800 per family unit with two bedrooms. $31,800 per family unit with three bedrooms. $36,000 per family unit with four or more bedrooms.

(2) *Increased mortgage amount—elevator type structures.* In order to compensate for the higher costs incident to construction of elevator type structures of sound standards of construction and design, the lender may, pursuant to guidelines issued by the Commissioner, increase the dollar amount limitations per family unit for these type structures to not in excess of: $22,500 per family unit without a bedroom. $25,200 per family unit with one bedroom. $30,900 per family unit with two bedrooms. $38,700 per family unit with three bedrooms. $43,758 per family unit with four or more bedrooms.

(3) *Increased mortgage amount—high cost areas.* (i) In any geographical area where the Commissioner finds cost levels so require, the Commissioner may increase, by not to exceed 50 percent, the dollar amount limitations set forth in paragraphs (a) (1) and (2) of this section.

(ii) If the Commissioner finds that because of high costs in Alaska, Guam, or Hawaii, it is not feasible to construct dwellings without the sacrifice of sound standards of construction, design, and livability within the limitations of maximum mortgage amounts provided in this section, the principal obligation of mortgages may be increased in such amounts as may be necessary to compensate for such costs but not to exceed in any event the maximum, including high cost area increases, if any, otherwise applicable by more than one-half thereof.

(b) *Value:* An amount not exceeding 85 percent of the lender's estimate of market value. The final estimate of value for the purpose of this section shall result from consideration of three indicators of market value:

(1) The estimated market value of the project by capitalization;

(2) The estimated market value by direct sales comparison;

(3) The total estimated replacement cost of the project (without deducting depreciation). Capitalization will use net income which results from market rents estimated by comparison with unsubsidized projects, capitalized at rates extracted from market transactions of comparable properties. Market value by direct sales comparison will be estimated by comparison of the subject property with competing properties recently sold, using at least two units of comparison. The total estimated replacement cost of the project (before depreciation) provides only an upper limit. The final estimate of value must lie between that indicated by capitalization and that indicated by direct sales comparison, but in no event shall the final estimate of value exceed the total estimated replacement cost of the project.

(c) *Property to be refinanced.* If the property is to be refinanced by the insured mortgage without a change of ownership, or, if property is sold to a purchaser who has an identity of interest with the seller and the purchase is to be financed with the insured mortgage, then the maximum mortgage amount shall not exceed the greater of:

(1) 70 percent of the lender's estimate of value of the project, or,

(2) The cost to refinance the existing indebtedness which will consist of the following items, the eligibility and amounts of which must be determined by the lender:

(i) The amount required to pay off the existing indebtedness;

(ii) An amount for the initial deposit for the reserve fund for replacements;

(iii) Reasonable and customary legal, organizational, title, and recording expenses, including discounts charged by the lender, as permitted by the Commissioner;

(iv) The estimated repair costs, if any, including the estimated cost of installing safety and fire prevention components, as defined by the Commissioner, in the project;

(v) Architect's municipal inspection and/or engineering fees.

(d) *Property to be acquired.* If the project is to be acquired by the mortgagor and the purchase price is to be financed with the insured mortgage, the maximum amount shall not exceed 85 percent of the cost of acquisition as determined by the lender. The cost of acquisition shall consist of the following items (to the extent that each item is paid by the purchaser separately from the purchase price), the eligibility and amounts of which must be determined by the lender:

(1) Purchase price as indicated in the purchase agreement;

(2) An amount for the initial deposit to the reserve fund for replacements;

(3) Reasonable and customary legal, organizational, title, and recording expenses, including discounts charged by the lender, as permitted by the Commissioner;

(4) The estimated repair cost, if any, including the estimated cost of installing fire prevention and safety compo-

nents, as defined by the Commissioner, in the project;

(5) Architects's municipal inspection and/or engineering fees.

(e) *Debt service.* An amount that can be amortized by 85 percent of the projected net income of the project after payment of operating expenses and taxes.

(f) *Reduced mortgage amount—leaseholds.* In the event the mortgage is secured by a leasehold estate rather than a fee simple estate, the value of the property described in the mortgage shall be the value of the leasehold estate (as determined by the lender) which shall in all cases be less than the value of the property in fee simple.

§ 255.212 Maturity.

The mortgage shall have a maturity satisfactory to the lender, not less than 10 years, nor shall it exceed the lesser of 35 years or 75 percent of the estimated remaining economic life of the physical improvements. The term of the mortgage shall begin on the first day of the second month following the date of initial-final endorsement of the mortgage for insurance.

§ 255.213 Payment requirements.

Method of payment. The mortgage shall provide for monthly payments on the first day of each month on account of interest and principal and shall provide for payments in accordance with an amortization plan as agreed upon by the mortgagor, and the lender.

§ 255.214 Maximum mortgage interest rate.

(a) On and after September 2, 1975, the maximum interest rate on which commitments to insure shall be issued shall not exceed 9 percent per annum.

(b) The insured mortgage shall bear interest at such rate as may be agreed upon by the mortgagor and the lender but such rate shall not exceed the rate specified in the commitment to insure. At the option of the lender, it may issue an amended commitment to insure at a higher or lower interest rate. If the amended commitment is to insure at a higher rate, such higher rate shall not exceed the maximum rate in effect at the time of the issuance of the amended commitment which shall be no later than the date that the mortgage is endorsed for insurance. The lender shall only request a commitment to insure a mortgage at a higher rate than that specified in the original commitment to insure if it is determined by the lender that the project which is the security for the mortgage will be able to charge the increased rentals required to amortize a mortgage at the higher rate without adversely affecting the economic soundness of the project.

§ 225.215 Mortgage to cover the entire property.

The mortgage shall cover the entire property included in the housing project.

§ 225.216 Covenant for hazard insurance.

The mortgage shall contain a covenant acceptable to the Commissioner binding the mortgagor to keep the property insured by a standard policy or policies against loss from fire and such other hazards as the lender, upon the insurance of the mortgage, may stipulate, in an amount which will comply with the coinsurance clause applicable to the location and character of the property, but not less than 80 percent of the actual cash value of the insurable improvements and equipment of the project. The policies evidencing such insurance shall have attached thereto a standard mortgagee clause making loss payable to the lender and the Commissioner as their interests may appear.

§ 225.217 Soundness of project.

No mortgage shall be accepted for insurance unless the lender finds that the property or project with respect to which the mortgage is executed is economically sound, except that as to mortgages covering property located in Alaska, or in Guam, or in Hawaii, no mortgage shall be accepted for insurance unless the lender, with prior notice to the Commissioner finds that the property or project is an acceptable risk giving consideration to the acute housing shortage in Alaska, or in Guam, or in Hawaii.

§ 225.218 Accumulation of accruals.

(a) The mortgage shall provide for payments by the mortgagor to the lender on each interest payment date of an amount sufficient to accumulate in the hands of the lender one payment period prior to its due date, the next annual mortgage insurance premium. Such payments shall continue only so long as the contract of coinsurance shall remain in effect.

(b) The mortgage shall provide for such equal monthly payments by the mortgagor to the lender as will amortize the ground rents, if any, and the estimated amount of all taxes, water rates and special assessments, if any, and fire and other hazard insurance premiums, within a period ending one month prior to the date on which the same become delinquent. the mortgage must also make provisions for adjustments, in case the estimated amount of such taxes, water rates and assessments, and insurance premiums shall prove to be more, or less, than the actual amount thereof so paid by the mortgagor.

§ 255.219 Application of mortgage payments

The mortgage shall provide that all monthly payments being made by the mortgagor to the lender shall be added together and the aggregate thereof shall be paid by the mortgagor upon each monthly payment date in a single payment. The lender shall apply all payments received from the mortgagor or for the account of the mortgagor to the following items in the order set forth:

(1) Premium charges under the contract of insurance, where applicable.

(2) Ground rents, taxes, special assessments and fire and other hazard insurance premiums.

(3) Interest on the mortgage.

(4) Amortization of the principal of the mortgage.

§ 225.220 Prepayment privileges.

The mortgage may establish such conditions or penalties for prepayment as may be agreed upon by the lender and mortgagor.

§ 255.221 Late charges.

The mortgage may provide for the collection by the lender of a late charge, not to exceed two cents for each dollar, of each payment to interest and principal more than 15 days in arrears, or such other charges as may be agreed to by the lender and the Commissioner, to cover the extra expense involved in handling delinquent payments. Late charges shall be separately charged to and collected from the mortgagor and shall not be deducted from any aggregate monthly payment.

SUPERVISION OF MORTGAGORS

§ 255.222 In general.

In order to be eligible for the benefit of insured financing under this part, a mortgagor must agree to be regulated and restricted by the lender as to rents, sales, charges, capital structure, rate of return, and methods of operation.

§ 255.223 Required supervision of private mortgagors.

The regulatory agreement required by § 255.107 shall provide that the following items are regulated or restricted:

(a) *Capital structure.* (1) The number of shares of capital stock, in the case of a corporation, may be issued in such amounts and form as may be agreed upon by the sponsors and the lender prior to the endorsement of the mortgage for insurance; and

(2) In the case of a trust entity beneficial certificates of interest may be issued in such amounts and form as may be agreed upon by the mortgagor and the lender.

(b) *Rate of return.* Dividends of other distributions, as defined in the charter, trust agreement, or regulatory agreement, may be declared or made only as of or after the end of a semiannual or annual fiscal period. No dividends or other distributions shall be declared or made except out of surplus cash legally available and remaining after:

(1) The payment of: (i) All sums due or currently required to be paid under the terms of any mortgage or note insured under this part;

(ii) All amounts required to be deposited in the reserve fund for Replacements;

(iii) All obligations of the project other than the mortgage insured under this part unless funds for payment are set aside or deferment of payment has been approved by the lender.

(2) The segregation of: (i) An amount equal; to the aggregate of all special funds required to be maintained by the project;

(ii) All tenant security deposits held. No distributions of any kind may be made from borrowed funds.

(c) *Rents and charges.* No charge shall be made by the mortgagor for the accommodations, facilities, or services offered by the project in excess of those approved by the lender, and subject to further review by the Commissioner, in writing prior to the opening of the project for rental. In approving such charges and in passing upon applications for changes, consideration will be given to the following and similar factors:

(1) Rental income necessary to maintain the economic soundness of the project.

(2) Rental income necessary to provide reasonable return on the investment consistent with providing reasonable rentals to tenants.

(d) *Methods of operation.* (1) The mortgagor shall maintain its project, the grounds, buildings, and equipment appurtenant thereto, in good repair and will promptly complete necessary repairs and maintenance as required by the lender.

(2) In all projects, a fund for replacement shall be established and maintained with the lender. The amount and type of such fund and the conditions under which it shall be accumulated, replenished, and used, shall be specified in the regulatory agreement.

(3) The mortgagor, its property, equipment, buildings, plans, offices, apparatus, and devices, books, contracts, records, documents, and papers shall be subject to inspection and examination by the commissioner and the lender, or their authorized agents at all reasonable times.

(4) The mortgagor shall execute and deliver to the Commissioner or the lender a certificate that the books and accounts of the mortgagor will be established and maintained in a manner satisfactory to the lender on the date the certificate is executed. Such certificate shall be to the effect that so long as the mortgage is coinsured the mortgagor's books and accounts will be kept in accordance with the requirements of the lender; will be in such form as to permit a speedy and effective audit and as may otherwise be prescribed by the lender; will be maintained for such periods of time as may be prescribed by the lender, and will be available to the Commissioner, the lender and to the Comptroller General of the United States for such examination and audits as they may desire to make. The mortgagor shall file with the Commissioner and the lender the following reports verified by the signature of such officers of the mortgagor as the lender may designate and in such form as prescribed by the lender:

(i) Monthly occupancy reports, when required by the lender;

(ii) Complete annual financial reports based upon examinations of the books and records of the mortgagor, prepared in accordance with the requirements of the lender, certified to by an officer of the mortgagor and, when required by the lender, prepared and certified by a Certified Public Accountant (or other person acceptable to the lender), such reports to be submitted within sixty (60) days after the end of each fiscal year.

(iii) Specific answers to questions upon which information is desired from time to time relative to the actual cost of repairs and improvements, the disposition of mortgage funds, the operation and condition of the property and the status of the insured mortgage;

(iv) Properly certified copies of minutes of meetings of the directors, officers, stockholders, shareholders, or beneficiaries.

§ 255.224 Nondiscrimination in housing.

The mortgagor shall certify in the regulatory agreement required by § 255.107 that so long as the mortgage is coinsured under this part the mortgagor will do the following:

(a) Agree to refrain from utilizing criteria or methods of selecting tenants which discriminate against any family by reason of the fact that there are children in the family, unless the project was designed specifically for occupancy by elderly people; or discriminate against any family by reason of the sex of household head.

(b) Comply with the provisions of title VIII of the Civil Rights Act of 1968, as amended, which prohibits discrimination because of race, color, creed, sex, or national origin, and administer the program and related activities in a manner to affirmatively further fair housing. The applicant shall also comply with similar State and local fair housing laws and ordinances.

(c) Comply with the provisions of Executive Order 11063 on Equal Opportunity in Housing which deals with preventing discrimination on the basis of race, color, creed or national origin in housing and related facilities provided through Federal financial assistance.

(d) Rent, permit the rental or permit the offering for rental of the housing, or any part thereof, covered by such mortgage, for transient or hotel purposes. For the duration of the regulatory agreement, the term rental for transient or hotel purposes shall mean (1) rental for any period less than 30 days, or (2) any rental, if the occupants of the housing accommodations are provided customary hotel services, such as room service for food and beverages, maid service, furnishing and laundering of linens, and bellboy service;

(e) Sell the project as long as the mortgage is coinsured under this part, unless the purchaser also certifies under oath as is required by this section.

§ 255.225 Discrimination in employment.

The mortgagor shall certify (on a form approved by the Department) that he (it) will not discriminate on the basis of race, color, creed, sex or national origin against any employee or applicant for employment. Any contract or subcontract executed for project repairs and improvements shall contain a provision to this effect. In addition, the provisions of Executive Order 11246 and title 24 CFR part 130 shall apply, when appropriate, to such contracts.

§ 255.226 Covenant regarding use of property.

The mortgagor shall contain a covenant prohibiting the use of the property covered thereby for any purpose other than that for which it was intended at date the mortgage was executed.

PROPERTY REQUIREMENTS

§ 255.227 Eligibility of property.

(a) A mortgage to be eligible for insurance shall be on real estate held:

(1) In fee simple; or

(2) On the interest of the lessee under a lease for not less than 99 years, which is renewable; or

(3) Under a lease having a period of not less than 75 years to run from the date the mortgage is executed; or

(4) Under a lease executed by a governmental agency, or such other lessor as the Commissioner may approve for the maximum term consistent with the legal authority for the execution of such lease, provided that the term of any such lease shall run for a period of not less than 50 years from the date the mortgage is executed.

(b) The property coinstituting security for the mortgage must be held by an eligible mortgagor as herein defined and must at the time the mortgage is insured be free and clear of other liens except those approved by the lender.

§ 255.228 Development of property.

(a) *Obligation of the mortgagor.* The mortgagor shall be obligated to either purchase or refinance existing housing and make such repairs and improvements as are deemed necessary by the lender. The property must not require substantial rehabilitation as hereinafter defined. The property, including improvements, shall comply with any material zoning or deed restrictions applicable to the project site and with all applicable building and other governmental regulations.

(b) *Properties requiring substantial rehabilitation.* Properties requiring substantial rehabilitation are those properties which do not provide safe and adequate shelter; and in their present condition endanger the health and well-being of the occupants. Such housing has: A critical defect or combination of criticial defects the cost of which would exceed the greater of:

(1) 15 percent of the property's value after repairs; or

(2) $3,000 per dwelling unit, or such higher amount that the Commissioner determines is justified when compared with amounts expended in the area for the majority of other rehabilitation projects assisted by the Department.

(c) *Costs of replacement items and fire safety equipment.* In determining whether a property exceeds the substantial rehabilitation threshold described in paragraph (b) (1) and (2) of this section, the Commissioner may exempt from the total which must not exceed the threshold, the purchase price but not the installation cost of the following specific items of replacement or fire safety equipment:

(1) Replacement of:

(i) Ranges/hoods,

(ii) Ovens,

(iii) Refrigerators,

(iv) Garbage disposals,

(v) Dishwashers, and

(vi) Carpets; and

(2) Fire safety equipment required by Federal, State or local law.

(d) *Critical defect.* As used herein, the term "critical defect" shall include, but is not limited to: Holes, open cracks, or loose or missing material over a large area of outside walls, roof, chimney, inside walls, floors or ceilings; insubstantial or sagging floors, walls or roof; extensive damage by storm, fire or flood; inadequate or potentially hazardous utility systems and equipment; a lack of hot running water, a usable flush toilet, a tub or shower.

(e) *Minimum number of units.* A project shall consist of not less than eight dwelling units.

(f) *Date of application.* In order to be eligible for mortgage insurance under this part, 3 years must have elapsed from the date of completion of the project or beginning of occupancy (whichever is later) to the date of application for mortgage insurance.

(g) *Financial viability.* The project shall have attained sustaining occupancy (occupancy that would produce rental income sufficient to pay operating expenses, annual debt service and reserve fund for replacement requirements) as determined by the lender, prior to endorsement of the project for insurance; or else the mortgagor shall provide an operating deficit fund at the time of endorsement for insurance, in an amount, and under an agreement, approved by the lender.

§ 255.229 Commercial facilities.

The project may include only such commercial and community facilities as the lender determines will be adequate and appropriate to serve the occupants. In no event shall net rentable commercial area exceed 10 percent of the total net rentable area, both commercial and residential. Notwithstanding the above, this limitation may be waived, for good cause, by the Commissioner.

TITLE

§ 255.230 Eligibility of title.

In order for the mortgaged property to be eligible for insurance, the lender must determine that marketable title thereto is vested in the mortgagor as of the date the mortgage is filed for record. The title evidence will be examined by the lender and the original endorsement of the credit instrument for insurance will be evidence of its acceptability.

§ 255.231 Title evidence.

Upon insurance of the mortgage, the mortgagor shall furnish to the lender a policy of title insurance covering such property, as provided in paragraph (a) of this section. If, for reasons the lender deems satisfactory, title insurance cannot be furnished, the mortgagor shall furnish such evidence of title in accordance with subparagraph (2), (3), or (4) of this paragraph, as the lender may require. Any policy of title insurance, or evidence of title required under this section shall be furnished without expense to the lender. The types of title evidence are:

(a) A policy of title insurance issued by a company and in a form satisfactory to the lender. The policy shall name as the insured the lender and the mortgagor as their interests may appear. The policy shall provide that upon acquisition of title by the lender, it will become an owner's policy running to the lender.

(b) An abstract of title satisfactory to the lender, prepared by an abstract company or individual engaged in the business of preparing abstracts of title, accompanied by the legal opinion satisfactory to the lender as to the quality of such title, signed by an attorney at law experienced in the examination of titles.

(c) A Torrens or similar title certificate.

(d) Evidence of title conforming to the standards of a supervising branch of the Government of the United States of America, or of any State or territory thereof.

COST CERTIFICATION REQUIREMENTS

§ 255.232 Agreement to certify cost requirements.

Prior to disbursement of any part of the loan, the lender shall enter into an agreement with the mortgagor in form and content satisfactory to the Commissioner for the purpose of precluding any excess of mortgage proceeds over statutory and regulatory limitations. Under this agreement, the mortgagor shall agree:

(a) To execute a certificate of actual costs, upon completion of all physical improvements on the mortgaged property, in accordance with § 225.235 of this part.

(b) To apply in reduction of the outstanding balance of the principal amount of the mortgage, mortgage proceeds which exceed the amounts set forth in § 255.239 of this report.

§ 225.235 Certificate of actual cost—contents in general.

(a) Submission of certificate. The mortgagor's certificate of actual cost, in a form approved by the Commissioner, shall be submitted prior to initial-final endorsement and upon completion of the improvements to the satisfaction of the lender, except those refinancing transactions where 70 percent of value is the controlling criterion.

(b) The certificate shall show the actual cost to the mortgagor of acquiring the property or refinancing property which secures an existing indebt-

edness. Items which shall be included if paid by the mortgagor in acquiring property are listed in § 255.211(d). Items which shall be included if paid by the mortgagor in refinancing property are listed in § 255.211(c)(2) of this chapter.

§ 255.239 Reduction in mortgage amount.

If the principal obligation of the mortgage exceeds the applicable statutory percentage of the approved actual cost, as reflected in this part, the mortgage shall be reduced by the amount of such excess prior to initial-final endorsement for insurance.

§ 225.240 Requisites of certification of actual costs.

Any statement of certification required by § 255.232 shall specifically state that it has been made, presented, and delivered for the purpose of influencing an official action of the Commissioner and may be relied upon by the Commissioner and the lender as a true statement of the facts contained therein.

§ 255.241 Cost certification incontestable.

Upon the lender's approval of the mortgagor's certification, such certification shall be final and incontestable except for fraud or material misrepresentation on the part of the mortgagor.

Subpart D—Contract Rights and Obligations

§ 255.401 Definitions.

As used in this subpart the following terms shall have the meaning indicated:

(a) "Commissioner" means the Federal Housing Commissioner.

(b) "Act" means the National Housing Act, as amended.

(c) "Mortgage" means such a first lien upon real estate and other property as is commonly given to secure advances on, or the unpaid purchase price of, real estate under the laws of the State, district, or territory in which the real estate is located, together with the credit instruments, if any, secured thereby.

(d) "Insured mortgage" means a mortgage which has been insured by the endorsement of the mortgage note pursuant to this part by the Commissioner, or his duly authorized representative.

(e) "Contract of coinsurance" means the agreement between the private lender and the Commissioner for the coinsurance of a mortgage evidenced by the endorsement of a mortgage note by the Commissioner and includes the terms, conditions and provisions of this part and of the National Housing Act.

(f) "Mortgagor" means the original borrower under a mortgage and its successors and such of its assigns as are approved by the Commissioner.

(g) "Mortgage insurance premium" means the mortgage insurance premium paid by the lender to the Commissioner in consideration of the contract of insurance.

§ 255.402 Insurance of mortgage.

Upon compliance with a commitment the Commissioner and the lender will insure the loan against losses resulting from nonpayment of the debt, evidencing the insurance by an appropriate endorsement by the Commissioner placed on the original credit instrument which will identify the regulations under which the loan is insured and the date of insurance. The mortgage shall be insured from the date of the endorsement of the credit instrument by the Commissioner. The Commissioner and the lender shall thereafter be bound by the regulations in this part with the same force and to the same extent as if a separate contract had been executed relating to the insured mortgage, including the provisions of the regulations in this subpart and of the Act.

MORTGAGE INSURANCE PREMIUMS

§ 255.403 Amount of MIP to be collected from the mortgagor.

The lender may collect from the mortgagor an MIP from the date of the contract of coinsurance which shall not exceed an initial MIP of 1 percent of the principal obligations for the first year of the mortgage and 0.5 percent per annum of the amount of the principal obligation of the mortgage outstanding at any time thereafter, without taking into account delinquent payments or prepayments.

§ 255.404 Method of payment of MIP.

The payment of any MIP under this subpart shall be made to the Commissioner by the lender in cash or debentures. The MIP will be paid annually on a level percentage of the declining principal balance.

§ 255.405 Annual payment of MIP on a level percentage of the declining principal balance.

The lender shall pay to the Commissioner on the effective date of the contract of coinsurance, a first year mortgage insurance premium, covering a period of 1 year, equal to 0.75 percent of the outstanding principal balance of the mortgage. Each year thereafter, the lender, on the anniversary date of the contract of coinsurance shall pay a premium for the following year, equal to 0.38 percent per annum of the average outstanding principal obligation of the mortgage, without taking into account delinquent payments or prepayments. All premiums are payable in advance and no refund can be made of any portion thereof except as hereinafter provided in this subpart.

§ 255.406 Duration of MIP.

The MIP under § 255.405 shall continue annually until the earliest date on which one of the following occurs:

(a) The mortgage is paid in full.

(b) A deed to the lender is filed for record, or

(c) The contract of coinsurance is otherwise terminated with the consent of the Commissioner.

§ 255.407 Pro rata payment of annual MIP.

(a) If the contract of coinsurance is terminated after the due date of the initial first year MIP due in accordance with § 255.405, the lender shall pay to the Commissioner that portion of the current annual MIP prorated from the due date of the last annual MIP through the end of the month in which the contract of coinsurance is terminated.

(b) For the purpose of computing the pro rata portion of the annual MIP, the date of termination of coinsurance shall be the last day of the month in which the mortgage was prepaid or a voluntary termination request is received by the Commissioner.

DEFAULT UNDER THE MORTGAGE

§ 255.410 Definition of default.

The following shall be considered a default under this subpart:

(a) Failure of the mortgagor to make any payment due under the mortgage;

(b) Failure of the mortgagor to perform any other covenant under the provisions of the mortgage, if the lender because of such failure has accelerated the debt.

§ 255.411 Date of default.

For the purposes of this subpart, the date of default shall be considered as 30 days after:

(a) The first uncorrected failure to perform any obligation under the mortgage; or

(b) The first failure to make a monthly payment which is not covered by subsequent payments made by the mortgagor when such subsequent payments are applied to the overdue monthly payments in the order in which they became due.

§ 255.412 Notice of default.

The lender shall, within 60 days after the date of default as defined in this part, give written notice thereof to the Commissioner on a form prescribed by him, unless such default has been cured or unless the Commissioner has been notifed of a previous default which remains uncured.

§ 255.413 Reinstatement of a defaulted mortgage.

If after default and prior to the completion of foreclosure proceedings the mortgagor shall cure the default, the insurance shall continue as if a default had not occurred. The mortgagor shall pay to the lender such expenses as the lender has incurred in connection with the foreclosure proceedings and the lender shall give written notice of reinstatement to the Commissioner.

§ 255.414 Forbearance relief.

A mortgagor and a lender may enter into an agreement for the reduction or suspension of regular mortgage payments according to standards set forth by the Commissioner: *Provided,* That during such periods of modification of terms or forbearance, all moneys received from rents or other sources must be applied toward the payment of operating costs, with any receipts in excess of operating costs applied during such period to payments required under the mortgage. During periods of modification in mortgage terms or forbearance in requiring payment-in-full of all payments when due under the mortgage, the mortgagor shall agree that no distribution or dividends shall be payable by the mortgagor to any shareholder, partner, or other investor in the mortgagor entity.

TERMINATION

§ 255.415 Termination of coinsurance contract.

The contract of coinsurance for each individual mortgage shall be terminated if:

(a) The mortgage is paid in full prior to its maturity;

(b) The lender acquires the mortgaged property and notifies the Commissioner that no claim for insurance benefits will be made;

(c) After foreclosure the property is redeemed;

(d) The property is acquired at a foreclosure sale by a party other than the lender;

(e) The mortgagor and lender jointly request termination; or

(f) The lender sells or otherwise conveys the mortgage to other than a lender approved to coinsure under this part by the Commissioner.

§ 255.416 Notice and date of termination by Commissioner.

The Commissioner shall notify the lender that the contract of coinsurance on a mortgage has been terminated and establish the effective termination date. The termination date shall be the last day of the month in which any one of the following events occur:

(a) The date foreclosure proceedings were instituted, or the property otherwise acquired by the lender, if the lender notifies the Commissioner that no claim for insurance benefits will be made;

(b) The date the mortgage was prepaid in full;

(c) The date a voluntary termination request was received by the Commissioner;

(d) The date the mortgage was sold or otherwise conveyed to other than a lender approved to coinsure under this part.

§ 225.417 Effect of termination.

Upon termination of the contract of insurance, the obligations to pay any subsequent MIP shall cease and all rights of the mortgagor and lender shall be terminated.

CLAIM PROCEDURE

§ 255.420 Acquisition of property.

At any time after the default of the mortgage and the determination by the lender to accelerate the total principal amount of the mortgage, the lender, at its election, shall (if no other eligible entity has assumed the obligations of the mortgagor) either (a) commence foreclosure of the mortgage; or (b) acquire possession of, and title to, the mortgage property by means other than foreclosure. The lender shall notify the Commissioner of its action at the time it makes its election either to commence foreclosure of the mortgage or acquire possession and title by other means.

§ 255.421 Deed in lieu of foreclosure.

In lieu of instituting or completing a foreclosure, the lender may acquire property by voluntary conveyance from the mortgagor. Conveyance of the property by deed in lieu of foreclosure is approved subject to the following requirements:

(a) The mortgage is in default at the time the deed is executed and delivered;

(b) The credit instrument is canceled and surrendered to the mortgagor;

(c) The mortgage is satisfied of record as a part of the consideration for such conveyance; and

(d) The deed from the mortgagor conveys marketable title and contains a covenant which warrants against the acts of the grantor and all claiming by, through, or under him and conveys good marketable title.

§ 255.422 Notice to Commissioner.

At the time the lender elects to acquire title, it shall give written notice to the Commissioner of its intention to file a claim for insurance benefits.

§ 255.423 Application for insurance benefits.

(a) *Deductible.* Before a lender can file a claim for insurance benefits on any property acquired through a defaulted mortgage, the lender must establish that it has incurred a loss on the mortgage equal to at least 8 percent of the outstanding principal balance of the mortgage. In order to satisfy the deductible, the lender must acquire the property securing the mortgage. The loss is determined by deducting the market value of the property acquired for use for the market originally intended, as determined by an independent appraiser, from the unpaid principal balance due on themortgage secured by the property plus the expenses of such acquisition as approved by the Commissioner.

(b) After the lender has acquired the property as provided in § 255.420, the lender may make a claim for insurance benefits. At the time that the claim is made, the Commissioner shall estimate the total amount of the insurance benefits which will be due the lender upon disposition of the property, and a partial payment will be made to the lender on its claim in accordance with § 255.426(a).

PAYMENT OF INSURANCE BENEFITS

§ 255.424 Method of payment.

Payment of the insurance claim shall be made in cash unless the lender files a written request for payment indebentures.

§ 255.425 Disposition of property.

(a) Upon the acquisition of marketable title to the property securing a defaulted mortgage in accordance with § 255.420, the lender shall obtain an appraisal of the property by an independent appraiser. The appraisal shall be based upon the market value of the property for use for the market originally intended.

(b) After the lender sells the property, or after the expiration of 12 months, whichever occurs first, the lender may make a claim for the balance of the insurance benefits to which it is entitled in accordance with § 255.426(b).

(c) Upon making a claim to the Commissioner for the balance of the insurance benefits, the lender shall notify the Commissioner, on an approved form, of the sale of the property, the purchase price, and income and expenses incurred in connection with the acquisition, repair, operation, and sale of the property, and shall assign to the Commissioner, without recourse of warranty, any and all claims (other than the mortgage financing such sale) which the lender has acquired in connection with the transaction.

(d) If the property has not been disposed of at the time of the lender's request for final payment, the lender shall utilize the appraised value of the property secured in accordance with

paragraph (a) of this section in its notification to the Commissioner, in lieu of the sales price.

§ 255.426 Amount of payment.

(a) Upon the acquisition of marketable title to the property securing a defaulted mortgage in accordance with section 255.420, the lender shall be entitled to receive 60 percent of the difference between the unpaid principal balance on the date of the institution of foreclosure proceedings or on the date of acquisition of the property otherwise after default and the appraised value of the property secured in accordance with § 255.425(a).

(b) Upon disposition of the property or the expiration of 12 months from the date of acquisition of the property, whichever occurs earlier, the lender shall be entitled to the balance of the insurance benefits.

(c) The basis for the computation of insurance benefits shall be the sum of the unpaid principal balance on the date of the institution of foreclosure proceedings or on the date of acquisition of the property otherwise after default, plus the amount of all payments made by the lender and allowances for items as set forth in § 255.427 less all items as set forth in § 255.428.

(d) The amount of the total insurance benefits shall be 85 percent of the amount computed pursuant to paragraph (c) of this section.

(e) If the sum paid out in paragraph (a) of this section exceeds the amount of total insurance benefits determined pursuant to paragraph (d) of this section, the lender shall return such excess to the Commissioner.

§ 255.427 Items included in payment.

The insurance benefits paid shall include the following items:

(a) The amount of all payments made by the lender for taxes, special assessments, and water rates which are liens prior to the mortgage; for fire and hazard insurance on the property; and for any mortgage insurance premiums paid after default;

(b) An amount equivalent to debenture interest at the rate established pursuant to § 255.429 on the principal of the mortgage unpaid on the date of the institution of foreclosure proceedings or on the date of the acquisition of the property otherwise after default, from the date of default to the date of acquisition of title;

(c) An amount equivalent to mortgage interest on the principal of the mortgage unpaid on the date of institution of foreclosure proceedings or on the date of acquisition of the property after default, from the date of acquisition to the date of payment of the insurance benefits, as adjusted to reflect any partial or preliminary benefits payments;

(d) Costs, actually paid by the lender and approved by the Commissioner, of acquiring the property through foreclosure or otherwise, in an amount not in excess of two-thirds of such costs, such costs shall not include loss or damage resulting from the invalidity or unenforceability of the lien of the mortgage or the unmarketability of the title of the mortgagor;

(e) Reasonable payments made by the lender for:

(1) Preservation, operation, and maintenance of the property;

(2) Repairs necessary to meet the objectives of the HUD minimum property standards, those required by local law, and such additional repairs as may be specifically approved in advance by the Commissioner;

(3) Expenses in connection with the sale of property.

§ 255.428 Items deducted from payment.

There shall be deducted from the total of the added items in § 255.426(c) and 255.427 the following items:

(a) An amount equal to 8 percent of the outstanding principal balance of the mortgage on the date of institution of foreclosure proceedings or on the date of acquisition of the property otherwise after default.

(b) All amounts received by the lender on account of the mortgage after the institution of foreclosure proceedings or the acquisition of the property by direct conveyance or otherwise after default.

(c) All cash held by the lender or its agents or to which it is entitled, including deposits made for the account of the mortgagor.

(d) All funds held by the lender for the account of the mortgagor received pursuant to any other agreement.

(e) The amount of any undrawn balance under a letter of credit accepted by the lender in lieu of a cash deposit for an escrow agreement.

(f) Any net income received by the lender from the property securing the mortgage after the date of default.

(g) The net proceeds from the sale of the project, except that if the lender sells the project for an amount less than the appraised value of a negotiated sale the amount to be deducted will be the appraised value. If the property is sold on the basis of a competitive bidding procedure approved by the Commissioner, the sales price will be deducted notwithstanding that it is lower than the appraised value. If the property has not been disposed of within 12 months from the date of acquisition, the lender shall use the appraised value of the property as a substitute for the sales price.

(h) All amounts previously received by the lender as partial payment of insurance benefits made in accordance with § 255.426(a).

§ 255.429 Cash—Debentures.

All of the provisions of § 207.259(e) of this chapter shall apply to mortgages coinsured under this part.

AMENDMENTS

§ 255.430 Effect of amendments.

The regulations in this subpart may be amended by the Commissioner at any time and from time to time, in whole or in part, but such amendment shall not adversely affect the interests of a lender under the contract of coinsurance on any mortgage already coinsured and shall not adversely affect the interest of a lender on any mortgage to be coinsured on which the Commissioner has made a commitment to insure.

Issued at Washington, D.C., on September 19, 1978.

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

[FR Doc. 78-26991 Filed 9-25-78; 8:45 am]

federal register

TUESDAY, SEPTEMBER 26, 1978
PART VI

THE NATIONAL ARCHIVES OF THE UNITED STATES
LITTERA SCRIPTA MANET
1934

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

DETERMINATION OF CRITICAL HABITAT FOR THE LEATHERBACK SEA TURTLE

[4310-55]

Title 50—Wildlife and Fisheries

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

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Determination of Critical Habitat for the Leatherback Sea Turtle

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines critical habitat for the leatherback sea turtle (*dermochelys coriacea*) in a portion of its range. This action is being taken to insure the integrity of the only major nesting beach used by leatherbacks in the United States or its territories and makes all provisions of section 7 of the Endangered Species Act of 1973 available to this species. In accordance with section 7, all Federal agencies will be required to insure that actions authorized, funded, or carried out by them do not adversely affect this critical habitat. The areas determined as critical habitat are located on Sandy Point at the western edge of St. Croix, U.S. Virgin Islands.

DATE: This rule becomes effective on October 26, 1978.

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

In the Federal Register of March 23, 1978 (43 FR 12050-12051), the Fish and Wildlife Service published a proposed determination of critical habitat for the leatherback sea turtle (*Dermochelys coriacea*). This critical habitat was described as:

> U.S. Virgin Islands—A strip of land 0.1 mile wide (from mean high tide inland) at Sandy Point Beach on the western end of the island of St. Croix beginning at the southwest cape to the south and running 0.8 mile northwest and then northeast along the shoreline.

In the March 23, 1978, Federal Register proposed rulemaking (43 FR 12050-12051) and associated March 28, 1978, press release, all interested parties were invited to submit factual reports or information which might contribute to the formulation of a final rulemaking.

All public comments received during the period March 23, 1978, to July 20, 1978, were considered.

Summary of Comments and Recommendations

A total of 14 comments were received in response to the proposal for critical habitat for this species; no comments were received which opposed designating Sandy Point Beach as critical habitat for the endangered leatherback. Comments were received from Gov. Juan Luis of the U.S. Virgin Islands, John Yntema and Otto Tranberg (Virgin Islands Department of Conservation and Cultural Affairs), Capt. F. P. Schubert (U.S. Coast Guard), Christina Palacio (New York Zoological Society), Craig Van Note (monitor), Omar Munoz-Roure (Caribbean Fishery Management Council), and seven private individuals. Only Governor Luis, Mr. Yntema, and Mr. Tranberg added information to that contained in the original proposal.

Both Governor Luis and John Yntema expressed concern that the width of the proposed critical habitat, 0.1 mile, might be too narrow to include all areas of suitable nesting habitat for the leatherback. Both recommended widening the area to 0.2 mile. In addition, Governor Luis noted past cooperation between Federal agencies and Virgin Islands personnel and expressed support for continued cooperation. Governor Luis also noted that it is the desire of the Virgin Islands to eventually acquire a major portion of the holdings.

Mr. Tranberg noted that records of the Virgin Islands Department of Conservation and Cultural Affairs indicate that a total of 86 leatherbacks actually nested on Sandy Point in 1977 and that as of the date of his letter May 18, 1978), 17 leatherbacks had nested. He noted that as much as 10 percent of nesting activity is actually occurring adjacent to the area proposed as critical habitat. Mr. Tranberg therefore recommended that the area be enlarged 0.7 mile on the south shore and 0.4 mile on the north shore. He also stated that 15 leatherback nests have been found to date in 1978 in the Shoys Beach area near Christiansted, St. Croix.

Conclusion

All information received by the Service indicates that the area proposed as critical habitat on Sandy Point for the leatherback does indeed qualify as critical habitat under that definition (see the Federal Register of January 4, 1978 (43 FR 870-876)). In addition, information received during the comment period suggests that the critical habitat should be expanded somewhat to include areas of additional nesting activity on Sandy Point Beach. Accordingly, the Director hereby determines final critical habitat for the leatherback sea turtle to be as follows (exclusive of those existing manmade structures or settlements which are not necessary to the normal needs or survival of the species):

> U.S. Virgin Islands—A strip of land 0.2 mile wide (from mean high tide inland) at Sandy Point Beach on the western end of the island of St. Croix beginning at the southwest cape to the south and running 1.2 miles northwest and then northeast along the western and northern shoreline, and from the southwest cape 0.7 mile east along the southern shoreline.

Effect of the Rulemaking

The effects of this determination are involved primarily with section 7 of the Act, which 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) and is reprinted below:

> "Critical habitat" means any air, land, or water area (exclusive of those existing manmade structures or settlements which are not necessary to the survival and recovery of a listed species) and constituent elements thereof, the loss of which would appreciably decrease the likelihood of the survival and recovery of a listed species or a distinct segment of its population. The constituent elements of critical habitat include, but are not limited to: Physical structures and topography, biota, climate, human activity, and the quality and chemical content of land, water, and air. Critical habitat may represent any portion of the present habitat of a listed species and may include additional areas for reasonable population expansion.

As specified in the regulations for interagency cooperation as published in the January 4, 1978, Federal Register (43 FR 870-876), the Director will consider the physiological, behavioral, ecological, and evolutionary requirements for survival and recovery of listed species in determining what areas or parts of habitat are critical. These requirements include, but are not limited to:

(1) Space for individual and population growth and for normal behavior;

(2) Food, water, air, light, minerals, or other nutritional or physiological requirements;

(3) Cover or shelter;

(4) Sites for breeding, reproduction, or rearing of offspring; and generally,

(5) Habitats that are protected from disturbances or are representative of the geographical distribution of listed species.

In accordance with the July 18, 1977, memorandum of understanding between the Fish and Wildlife Service and National Marine Fisheries Service, the Fish and Wildlife Service was given the responsibility for sea turtles while on land. Such responsibility includes the determination of critical habitat. Since the only time leatherback sea turtles leave the water to come onto beaches in the U.S. Virgin Islands is to lay eggs, the areas included in this determination are areas where leatherback sea turtles nest. All the beaches in this rulemaking provide sites for the incubation of eggs and are known to provide proper sand size, moisture, and temperature conditions for successful development and hatching. There may be many kinds of actions which can be carried out within the critical habitat of a species which would not be expected to adversely affect that species. This point has not been well understood by some persons. There has been widespread and erroneous belief that a critical habitat designation is something akin to establishment of a wilderness area of wildlife refuge, and automatically closes an area to most human uses. Actually, a critical habitat designation applies to Federal agencies, and essentially is an official notification to these agencies that their responsibilities pursuant to section 7 of the Act are applicable in a certain area.

A critical habitat designation must be based solely on biological factors. There may be questions of whether and how much habitat is critical, in accordance with the above interpretation, or how to best legally delineate this habitat, but any resultant designation must correspond with the best available biological data. It would not be in accordance with the law to involve other motives; for example, to enlarge a critical habitat delineation so as to cover additional habitat under section 7 provisions, or to reduce a delineation so that actions in the omitted area would not be subject to evaluation.

There may indeed be legitimate questions of whether, and to what extent, certain kinds of actions would adversely affect listed species. These questions, however, are not relevant to the biological basis of critical habitat delineations. Such questions should, and can more conveniently, be dealt with after critical habitat has been designated. In this respect, the Service in cooperation with other Federal agencies had drawn up a set of regulations which, in part, establish a consultation process for helping to evaluate the possible effects of actions on critical habitat. Regulations for interagency cooperation were published on January 4, 1978, in the FEDERAL REGISTER (43 FR 870-876) to assist Federal agencies in complying with section 7 of the Endangered Species Act of 1973.

NATIONAL ENVIRONMENTAL POLICY ACT

An environmental assessment has been prepared in conjunction with this rulemaking. It is on file in the Service's Office of Endangered Species, 1612 K Street NW., Washington, D.C. 20240, and may be examined during regular business hours or obtained by mail. The assessment is the basis for a decision that the determinations of this rulemaking are not major Federal actions 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 rulemaking is Dr. C. Kenneth Dodd, Jr., Office of Endangered Species, U.S. Fish and Wildlife Service, 202-343-7814.

REGULATION PROMULGATION

§ 17.95 [Amended]

Accordingly, 50 CFR 17.95(c) is amended by adding critical habitat of the leatherback sea turtle after that of the giant anole as follows:

* * * * *

(c) *Reptiles.** * *

LEATHERBACK SEA TURTLE

(Dermochelys coriacea)

U.S. Virgin Islands—A strip of land 0.2 mile wide (from mean high tide inland) at Sandy Point Beach on the western end of the island of St. Croix beginning at the southwest cape to the south and running 1.2 miles northwest and then northeast along the western and northern shoreline, and from the southwest cape 0.7 mile east along the southern shoreline.

NOTE.—The Service has determined that this document does not contain a major action requiring preparation of an economic impact statement under Executive Order 11949 and OMD Circular A-107.

Dated: September 18, 1978.

LYNN A. GREENWALT,
Director, Fish and Wildlife Service.

[FR Doc. 78-26993 Filed 9-25-78 8:45 a.m.]

Federal Register

TUESDAY, SEPTEMBER 26, 1978
PART VII

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

■

BOLSON TORTOISE

Proposed Endangered Status

[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 Bolson Tortoise

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to determine the Bolson tortoise (*Gopherus flavomarginatus*) to be an endangered species. This action is being taken because the tortoise is under heavy pressure from human predation, habitat modification, competition from grazing stock, and collection of individuals. The proposed action, if completed, would provide additional protection to this species, listed now as an appendix II species on the Convention on International Trade in Endangered Species of Wild Fauna and Flora. The Bolson tortoise is known from the States of Chihuahua, Coahuila, and Durango in Mexico.

DATES: Comments from the public and the Government of Mexico must be received by December 25, 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

On June 15, 1978, the Fish and Wildlife Service was petitioned by Dr. David Morafka of California State University—Dominguez Hills to list the Bolson tortoise, *Gopherus flavomarginatus*, as an endangered species under provisions of the Endangered Species Act of 1973. Included with the petition was a report entitled "The Ecology and Conservation of the Bolson Tortoise, *Gopherus flavomarginatus*" in which Dr. Morafka reviewed the biology and status of the species throughout its range. On June 29, 1978, the Director of the Service notified Dr. Morafka that he had supplied sufficient information to warrant serious consideration for listing under provisions of the Act.

The Bolson tortoise is the largest terrestrial ectothermic vertebrate in North America and one of four species of the genus *Gopherus*, a genus confined to North America. This species was only described in 1959 and remains one of the least known reptiles in the northern hemisphere in spite of its size. Adults may measure in excess of 1 meter shell length, with a flat-topped, posteriorly flared carapace with laminae that are pale in contrast to dark centers. The plastron is horn yellow. In addition, there are various bone features (osteological characters) which distinguish this species from its close relatives. The Bolson tortoise is associated with grasslands and may have at one time been much more wide-ranging than at present. It is now confined to southeast Chihuahua, southwest Coahuila, and northeast Durango in northern Mexico. At present there are still a few remaining viable populations, although nearly all populations have been impacted directly by man.

Section 4(a) of the Act (16 U.S.C. 1531 et seq.) 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 the Bolson tortoise are as follows:

1. *The present or threatened destruction, modification, of curtailment of its habitat or range.*—Habitat destruction is accelerating throughout the range of the Bolson tortoise. Plowing and irrigation of fields for cotton, beans, corn, and melons have apparently contributed to the extirpation of the species in certain areas, such as the region west of Mexican Highway 49 and around Tlahualilo in Durango. As Mexico's resettlement program continues, more and more of the tortoise's habitat will likely be converted to agricultural and grazing uses. The continued existence of the tortoise in the vicinity of such practices is highly unlikely.

Habitat destruction also occurs through overgrazing by cattle and goats. Goat herds have long grazed the foothills of the tortoise country. Water supplies have been increased by underground drilling and as a result cattle are rapidly increasing in density in these arid grasslands. Some areas are now beginning to show the marked effects of overgrazing, usually indicated in this type of habitat by the erosion of topsoil and invasion of mesquite and creosote scrub. Cattle and goats destroy browse needed by the tortoises as well as burrows and cover sites by trampling.

2. *Overutilization for commercial, sporting, or educational purposes.*—In the pest, Bolson tortoises have been in demand for private collections, zoos, and museums in the United States and elsewhere; occasional shipments have reached dealers in El Paso. The extent of this collection is presently unknown in light of the tortoise's status as an appendix II species on the Convention on International Trade in Endangered Species of Wild Fauna and Flora. However, Mexico is not a party to the convention and it is likely that some trade is continuing. As recently as January 1978, Americans have been reported in Ceballos, Durango buying specimens.

3. *Disease or predation.*—Natural predation is probably only a minor factor contributing to the status of the Bolson tortoise. However, human predation may be the main cause for the extirpation or reduction in numbers of this tortoise over large areas of its range. This species is used extensively for food by the local population and although much of the area inhabited by tortoises is only sparsely settled, the tortoise populations are often eliminated as far away as 10 kilometers from the nearest habitation. As settlement increases, predation on the tortoises will accelerate.

4. *The inadequacy of existing regulatory mechanisms.*—Although permits are required by Mexico for the scientific collection of this species, no active resident personnel are present to enforce whatever legal protection may exist. There is no legal protection for the tortoise from local consumption. According Dr. Morafka's report, the enforcement of existing trade restrictions is also lacking.

5. *Other natural or manmade factors affecting its continues existence.*—Not applicable.

EFFECTS OF THE RULEMAKING

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 endan-

gered species. 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 Bolson tortoise, 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 this species in interstate or foreign commerce. 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.

Regulations published in 50 CFR Part 17 (1977) provide 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 if such relief were not available.

Public Comments Solicited

The Director intends that the rules finally adopted will be as accurate and effective as possible in the conservation of any endangered or threatened species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests, or any other interested party concerning 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 Bolson tortoise;

(2) Additional information concerning the range and distribution of this species.

Final promulgation of the regulations on the Bolson tortoise will take into consideration the comments and any additional information received by the Director, and such communications may lead him to adopt final regulations that differ from this porposal.

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 or obtained by mail. 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 Environment Policy Act of 1969.

The primary author of this proposed rulemaking is Dr. C. Kenneth Dodd, Jr., Office of Endangered Species, 202-343-7814.

Regulations Promulgation

Accordingly, it is hereby proposed to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

1. It is proposed to amend § 17.11(i) by adding, in alphabetical order under "Reptiles," the following to the list of animals:

§ 17.11 Endangered and threatened wildlife.

SPECIES			RANGE				
Common name	Scientific name	Population	Known distribution	Portion of range where endangered or threatened	Status	When listed	Special rules
REPTILES							
Tortoise, Bolson	Gopherus flavomarginatus	NA	Mexico	Entire	E		N/A

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: September 18, 1978.

ROBERT S. COOK,
Acting Director,
Fish and Wildlife Service.

[FR Doc. 78-26994 Filed 9-25-78; 8:45 am]

federal register

TUESDAY, SEPTEMBER 26, 1978
PART VIII

DEPARTMENT OF LABOR

Office of Pension and Welfare Benefit Programs

■

EMPLOYEE BENEFIT PLANS

Proposed Revision of Schedule B (Actuarial Information)

[4510-29]

DEPARTMENT OF LABOR

Office of Pension and Welfare Benefit Programs

EMPLOYEE BENEFIT PLANS

Proposed Revision of Schedule B (Actuarial Information)

AGENCY: Department of Labor.

ACTION: Notice of proposed revision of form.

SUMMARY: This document contains a proposed revision of schedule B (actuarial information) which is attached by certain employee benefit plans to the annual return/report filed on forms of the 5500 series. All employee benefit pension plans which are subject to the minimum funding standards of the Employee Retirement Income Security Act of 1974 (ERISA) must file a completed schedule B as an attachment to their annual return/report.

DATE: Written comments must be received by the Department of Labor (the Department) on or before November 6, 1978.

ADDRESSES: Written comments (preferably six copies) should be addressed to: "Schedule B Comments," Office of Regulatory Standards and Exceptions, Pension and Welfare Benefit Programs, Labor Management Services Administration, U.S. Department of Labor, Room C4526, Washington, D.C. 20216.

All written comments will be available for public inspection at the Public Documents Room, Pension and Welfare Benefit Programs, Department of Labor, Room N4077, 200 Constitution Avenue NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT:

Lottie Lisle, Office of Regulatory Standards and Exceptions, Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4461, Washington, D.C. 20216, 202-523-9211. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Department has under consideration proposed revisions to schedule B (actuarial information) which must be filed as an attachment to the annual return/report (5500 series) by all defined benefit pension plans that are subject to the minimum funding standards of part 3 of title I of ERISA and section 412 of the Internal Revenue Code of 1954, as amended.

Section 103(d) of ERISA generally requires that the annual report filed by a plan subject to the minimum funding standards of ERISA shall include an actuarial statement. The Department has implemented this statutory provision by adopting Schedule B to the annual return/report. The schedule requires the disclosure of, among other things, accumulated funding deficiency, value of plan assets, accrued liabilities, unfunded accrued liabilities, vested benefits (if calculated), and charges and credits to the funding standard account.

Section 103 (d)(6) of ERISA requires that the actuarial statement include the present value of the plan's liabilities for nonforfeitable pension benefits allocated by the termination priority categories set forth in section 4044. Under the authority of section 104(a)(2)(A) of ERISA the Department has waived the requirements of section 103(d)(6) for plan years beginning in 1975, 1976, and 1977. In order to waive this requirement the Secretary must find that the interests of plan participants are not harmed thereby and the expense of compliance with the requirements of section 103(d)(6) is not justified by the needs of the participants, the Pension Benefit Guaranty Corporation and the Department. The Department has tentatively determined that the information which would be submitted in response to questions 5 (d), (e), and (f) of the proposed schedule B would provide sufficient information with respect to plan liabilities. Therefore, if questions 5 (d), (e), and (f) are adopted, the Department contemplates issuing a permanent waiver from the requirements of section 103(d)(6).

Part 3 of ERISA and section 412 of the Code contain minimum funding standards for certain pension plans. In order to satisfy these standards, contributions must generally be made to such plans for each plan year. The amount of these contributions must be determined by using an "actuarial cost method," defined in section 3(31) of ERISA to mean a recognized actuarial technique utilized for establishing the amount and incidence of the annual actuarial cost of pension plan benefits and expenses. Section 3(31) lists several acceptable actuarial costs methods that may be used in determining the annual contributions to be made to a plan, but does not require the plan to use any particular one of these actuarial cost methods in determining annual contributions.

Under the present schedule B, the "accrued liabilities" disclosed on the form generally are calculated using the same actuarial cost method that is used in determining the annual contributions that must be made to the plan under the minimum funding standards. The "value of vested benefits" that is currently disclosed may also be calculated using this same method, or it may be calculated using one of the other acceptable actuarial methods. Both of these figures are usually current to the last actuarial valuation date. Other financial data on the form 5500, however, including the current value of plan assets, are reported current to the end of the plan year.

Because of the lack of a uniform basis for calculations and the difference in timing of certain actuarial and plan financial data, the information provided in schedule B is less useful to interested persons as a measure of the adequacy of the assets of any particular pension plan to meet its benefit obligations. In addition, certain methods have been used to calculate the present value of accrued benefits which are appropriate for funding calculations but may be less appropriate for determining the present value of accrued benefits. Accordingly, in order to achieve uniformity and to provide what the Department tentatively believes is the most appropriate method for calculating the present value of accrued benefits, the revised instructions to the schedule B, if adopted as herein proposed, would require plan actuaries, in calculating the present value of accrued benefits, to use a single method and to have the calculations reflect the condition of the plan as of the end of the plan year.

Other changes are also designed to aid interested persons in determining the benefit obligation of an ongoing pension plan. For example, the revised schedule would require that information with respect to the present value of vested benefits be provided separately for (1) retired participants and beneficiaries receiving payments, and (2) other participants. A further revision would require that the present value of nonvested accrued benefits be disclosed on a historical basis (i.e., based on service performed by, and compensation earned by, employees prior to the end of plan year). The present value of additional accrued benefits due to certain projections would also be disclosed.

It should be noted that under the proposal, the figures that would be required by questions 5 (d), (e), and (f) would be provided for plan years beginning in 1978 only if calculated by the plan actuary. For plan years beginning in 1979, it is proposed that responses to questions 5 (d), (e), and (f) be mandatory for all plans with 100 or more participants. The schedule would be further revised to require the disclosure of actuarial methods and assumptions on the schedule itself. Presently that information is provided as an attachment to the schedule. This revision should not impose any additional cost to plans but should aid the Department in computerizing and analyzing schedule B data.

PROPOSED FORM

Accordingly, it is proposed that pursuant to the authority in sections 103(d) and 109(a), of the Act, schedule B to the annual return/report (5500 series) and the instructions thereto be amended as follows:

SCHEDULE B (Form 5500)
Department of the Treasury
Internal Revenue Service
Department of Labor
Pension and Welfare Benefit Programs
Pension Benefit Guaranty Corporation

Actuarial Information

This schedule is required to be filed under section 104 of the Employee Retirement Income Security Act of 1974, referred to as ERISA, and section 6059(a) of the Internal Revenue Code, referred to as the Code.

▶ Attach to Forms 5500, 5500–C and 5500–K if applicable.

1978

This Form is Open to Public Inspection

For plan year beginning , 1978 and ending , 19

▶ Please complete every applicable item on this form. If an item does not apply, enter "N/A."
▶ Round off amounts to nearest dollar.

Name of plan sponsor as shown on line 1(a) of Form 5500, 5500–C or 5500–K | Employer identification number

Name of plan | Enter three digit plan number ▶

	Yes	No
1 Has a waiver of a funding deficiency for the current plan year been approved by the IRS? If "Yes," attach a copy of the IRS approval letter.		
2 Is a waived funding deficiency of a prior plan year being amortized in the current year?		
3 Have any of the periods of amortization for charges described in section 412(b)(2)(B) of the Code been extended by DOL? If "Yes," attach a copy of the DOL approval of extension letter.		
4 (a) Has the shortfall funding method been used?		
(b) (*i*) If (a) is "Yes," has the deferral of the amortization of the shortfall gain (loss), beyond the plan year following the year in which the shortfall gain (loss) arose, been elected?		
(*ii*) If (a) is "Yes," has the deferral of the amortization of the actuarial gain (loss), beyond the first plan year after valuation, been elected?		

5 Operational information: (a) Enter most recent actuarial valuation date ▶

(b) Enter date(s) and amount of contributions received this plan year for prior plan years and not previously reported:
Date(s) ▶ , Amount ▶

(c) Current value of the assets accumulated in the plan as of the end of the plan year

(d) Present value of vested benefits as of the end of plan year: [1]
(*i*) For retired participants and beneficiaries receiving payments
(*ii*) For other participants
(*iii*) Total

(e) Present value of nonvested accrued benefits (historical) as of end of plan year [1]

(f) Present value of additional accrued benefits (projected) as of end of plan year [1]

(g) Number of persons covered (included in the most recent actuarial valuation): (*i*) Active participants
(*ii*) Terminated participants with vested benefits
(*iii*) Retired participants and beneficiaries of deceased participants

6 Contributions made to the plan for the plan year by employer(s) and employees:

(a) Month Year	(b) Amount paid by employer	(c) Amount paid by employees	(a) Month Year	(b) Amount paid by employer	(c) Amount paid by employees
			Total		

7 Funding standard account and other information:

(a) Accrued liabilities as determined for funding standard account as of (enter date) ▶

(b) Value of assets as determined for funding standard account as of (enter date) ▶

(c) (*i*) Actuarial gains or (losses) for period ending ▶

(*ii*) Shortfall gains or (losses) for period ending ▶

(d) Accumulated funding deficiency at end of plan year (amount of contribution certified by the actuary as necessary to reduce the funding deficiency to zero), from 8(m) or 9(g)

Statement by Enrolled Actuary (see instructions before signing):

To the best of my knowledge, the information supplied in this schedule and on the accompanying statement, if any, is complete and accurate, and in my opinion the assumptions used in the aggregate (a) are reasonably related to the experience of the plan and to reasonable expectations, and (b) represent my best estimate of anticipated experience under the plan.

Signature of actuary — Date

Print or type name of actuary — Enrollment number

Address — Telephone number (including area code)

Schedule B (Form 5500) 1978 Page 2

8 Funding standard account statement for plan year ending ▶

Charges to funding standard account:

(a) Prior year funding deficiency, if any

(b) Employer's normal cost for plan year

(c) Amortization charges (outstanding balance at beginning of plan year ▶ $.....)

(d) Interest on (a), (b) and (c)

(e) Total charge, sum of (a) through (d)

Credits to funding standard account:

(f) Prior year credit balance, if any

(g) *(i)* Employer contributions (total from column (b) of item 6)

(ii) Employer contributions received this plan year for prior plan years and not previously reported

(h) Amortization credits (outstanding balance at beginning of plan year ▶ $.....)

(i) Interest on (f), (g) and (h)

(j) Other (specify) ▶

(k) Total credits, sum of (f) through (j)

Balance:

(l) Credit balance, excess, if any, of (k) over (e)

(m) Funding deficiency, excess, if any, of (e) over (k)

9 Alternative minimum funding standard account (omit if not used):

(a) Was the entry age normal cost method used to determine entries in item 8 above? ☐ Yes ☐ No

If "No," omit (b) through (g) below.

(b) Normal cost

(c) Excess, if any, of value of accrued benefits over market value of assets

(d) Interest on (b) and (c)

(e) Employer contributions (total from column (b) of item 6)

(f) Interest on (e)

(g) Funding deficiency, excess, if any, of the sum of (b) through (d) over the sum of (e) and (f)

10 Checklist of actuarial methods:

(a) ☐ Attained age normal cost (b) ☐ Entry age normal (c) ☐ Accrued benefit cost (unit credit)

(d) ☐ Aggregate cost (e) ☐ Frozen initial liability (f) ☐ Individual level premium cost

(g) ☐ Other (specify) ▶

11 Checklist of certain actuarial assumptions:

	Used for item 5(d) through (f) value of accrued benefits				Used for item 7, 8 or 9 funding standard account			
	Pre-retirement		Post-retirement		Pre-retirement		Post-retirement	
	☐ Yes	☐ No	☐ Yes	☐ No	☐ Yes	☐ No	☐ Yes	☐ No
(a) Rates specified in insurance or annuity contracts								
(b) Mortality table code:								
(i) Males								
(ii) Females								
(c) Interest rate	%		%		%		%	
(d) Retirement age								
(e) Expense loading	%		%		%		%	
(f) Annual withdrawal rate: [3]	*Male*	*Female*			*Male*	*Female*		
(i) Age 25	%	%			%	%		
(ii) Age 40	%	%			%	%		
(iii) Age 55	%	%			%	%		
(g) Ratio of salary at normal retirement to salary at age: [3]								
(i) Age 25	%	%			%	%		
(ii) Age 40	%	%			%	%		
(iii) Age 55	%	%			%	%		

(h) Was a social security benefit increase assumption used if the plan has a social security offset provision? [3] ☐ Yes ☐ No ☐ N/A

(i) Is a schedule of actuarial assumptions attached? ☐ Yes ☐ No ☐ N/A

[1] Provide these figures for 1978 plan year, if calculated. Beginning with the 1979 plan year disclosure of these figures is mandatory for all plans filing a Schedule B with 100 or more participants.

[2] This assumption is not to be used in item 5(d).

[3] These assumptions are not to be used in items 5(d) and (e).

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Department of the Treasury
Internal Revenue Service

Department of Labor
Pension and Welfare Benefit Programs

Pension Benefit Guaranty Corporation

1978 Instructions for Schedule B (Form 5500)

Actuarial Information

(Code references are to the Internal Revenue Code. ERISA refers to the Employee Retirement Income Security Act of 1974.)

General Intructions

Who Must File.—The employer or plan administrator of a defined benefit plan that is subject to the minimum funding standards (see section 412 of the Code and Part 3 of Title I of ERISA) must file this schedule as an attachment to the annual return/report filed for plan years beginning on or after January 1, 1976. Plans maintained on January 1, 1974, pursuant to one or more collective bargaining agreements entered into before September 2, 1974, are not subject to the minimum funding standards for plan years beginning before the earlier of the termination of the collective bargaining agreement(s) or January 1, 1981.

For split-funded plans, the costs and contributions reported on Schedule B should include those relating to both trust funds and insurance carriers.

Specific Instructions

(References are to line items on the form.)

4(a). A collectively bargained plan only may elect the shortfall funding method (see regulations under section 412 of the Code). Advance approval from the IRS of the election of the shortfall method of funding is NOT required if it is first adopted on or before the later of (i) the first plan year to which section 412 of the Code applies or (ii) the last plan year commencing before December 31, 1980. However, advance approval from IRS is required, if adopted at a later time or if discontinued.

4(b). Advance approval from IRS of the election to defer the amortization of the shortfall gain (loss) and/or the amortization of the actuarial gain (loss) is required for a plan year, subsequent to the first plan year to which the shortfall method applies. Advance approval from IRS is required for discontinuance.

5(a). The valuation for a plan year may be as of any date in the year, including the first and last. Valuations must be performed within the period specified by section 103(d) of ERISA and section 6059(a) of the Code.

5(b). Not applicable to the first plan year to which the minimum funding standards apply.

5(c). Enter current value of total assets as of the end of the plan year, as shown in item 13 on Form 5500, 5500–C or 5500–K.

5(d) through (f). Schedule B for plan years beginning in 1979 will require that the information indicated in 5(d), (e) and (f) be completed for all plans with 100 or more participants, in accordance with these instructions. Plans with fewer than 100 participants are to supply these figures if calculated. For plan years beginning in 1978, the information is required only to the extent it has been calculated. If the value indicated in item (d) has been calculated as of the end of the plan year beginning in 1978, it should be entered regardless of whether it has been determined according to these instructions.

Each separate actuarial assumption used in calculating the value of accrued benefits should explicitly reflect the expectations applicable to the organization or industry involved, on the basis of an ongoing—rather than terminating—plan. For example, the interest rate assumption should reflect the expected investment return on plan assets over the expected benefit payout period. The actuary shall take into account rates of early retirement and the plan's early retirement provisions as they relate to the accrued benefits, where these would significantly affect the results. See instructions for item 11 for further requirements concerning actuarial assumptions.

Where significant, the value of accrued benefits shall be increased by the value of any subsidized early retirement benefits, disability benefits, and death benefits which are related to the accrued benefit. The value of accrued benefits should also be increased by the value of a cost-of-living clause if such a clause is currently part of the benefit formula.

The values should be determined as of the end of the plan year; projected estimates as of the end of the plan year based upon the most recent actuarial valuation may be used, if the actuary believes this provides a reasonable estimate of values as of the end of the plan year. If a projection is used, no withdrawals and no new entrants to the workforce should be assumed without supporting data for the projection period. Values should reflect all amendments adopted or finally agreed to during the plan year

In determining whether estimates from the last valuation date to the end of the plan year are reasonable the actuary should consider:

(i) any indication of a need to make significant changes in the actuarial assumptions (e.g. change in the demographic composition of the group);

(ii) any plan amendment since the last valuation;

(iii) a full or partial termination of the plan;

(iv) a merger with another plan;

(v) a spin-off.

Omit from items 5(d), 5(e) and 5(f) liabilities fully funded by annuity and insurance contracts other than any contract funds not allocated to individuals.

5(d). Include the value of all vested accrued benefits. 5(d)(i) should include the value of vested benefits for all retired participants. 5(d)(ii) should include all value of vested benefits for other participants. 5(d)(iii) is the sum of 5(d)(i) and (ii). Withdrawal rates should not be incorporated in these calculations.

5(e). Include the value of the excess, for all participants, of the value of all accrued benefits over the value of their vested benefits included in (d). The term "accrued benefit" means the individual's accrued benefit determined under the plan as required by section 204 of ERISA. Withdrawal rates should normally be incorporated in these calculations.

5(f). This line may be omitted if benefits attributable to service accrued to date will not vary if pay or service changes, and if the plan does not provide (i) uninsured benefits related to death or disability, or (ii) early retirement benefits substantially greater than actuarially equivalent benefits.

Include the value of the excess, for all active participants, of the increased value of all accrued benefits as defined in (d) and (e) due to certain projections. The calculation is identical to that shown in items 5(d) and (e), modified to incorporate a projection of salary increases and increases in Social Security covered earnings or benefits (but not future amendments to Social Security law) where the accrued normal retirement benefit is contingent upon an unknown level of (i) future compensation and/or (ii) Social Security covered earnings or benefits, and further modified to reflect any increased value of subsidized early retirement, death and disability benefits over the figures included in 5(d) and (e) calculations.

6. Show all employer and employee contributions for the plan year, and employer contributions made not later than 2½ months (or such later date allowed under section 412(c)(10) of the Code and section 302(c)(10) of ERISA) after the end of the plan year.

7(a). If the aggregate cost or frozen initial liability method is used, enter "N/A".

7(b). Enter the value of assets determined in accordance with section 412(c)(2) of the Code or 302(c)(2) of ERISA.

7(c)(i). If the aggregate cost or frozen initial liability method is used, enter "N/A".

7(c)(ii). For the methods to be used to determine the shortfall gain (loss) see the regulations under section 412 of the Code.

7(d). Insert amount from item 8(m). However, if the alternative method is elected, and item 9(g) is smaller than item 8(m), enter the amount from item 9(g). File Form 5330 with the Internal Revenue Service to pay the 5% excise tax on the funding deficiency.

Statement by Enrolled Actuary

In lieu of signing the statement, an enrolled actuary may attach a signed statement containing the name, address, enrollment number, telephone number and the actuary's opinion that the assumptions used in preparing Schedule B are in the aggregate reasonably related to the experience of the plan and to reasonable expectations, and represent his or her best estimate of anticipated experience under the plan and to the best of his or her knowledge the report is complete and accurate. In addition, the actuary may offer any other comments related to the information contained in Schedule B.

8. Under the shortfall method of funding, the Normal Cost in the funding standard account, is the charge per unit of production (or per unit of service) multiplied by the actual number of units of production (or units of service) which occurred during the plan year. Each amortization installment in the funding standard account is similarly calculated. For a plan maintained by more than one employer, the amortization of the shortfall gain (loss) and the actuarial gain (loss) may be deferred. See regulations under section 412 of the Code.

8(b). If no valuation was made for the current year, enter the normal cost calculated in the most recent actuarial valuation, or the estimated cost for the current year based on such valuation. If amounts are not as of the date of the most recent actuarial valuation, indicate in the Statement of Actuarial Assumptions and Methods how the amounts shown were determined.

9(a). If the entry age normal cost method was not used to determine the entries in item 8, the alternative minimum funding standard account may not be used.

9(c). The value of accrued benefits should exclude benefits accrued for the current plan year. The market value of assets should be reduced by the amount of any contributions for the current plan year.

10. Enter only the primary method used. If the plan uses one actuarial cost method in one year as the basis of establishing an accrued liability for use under the frozen initial liability method in subsequent years, answer as if the frozen initial liability method were used in all years.

11. Complete all blanks. Enter N/A if not applicable. For the assumptions used for calculating the figures in 5(d) through (f), each assumption must be individually reasonable. If the assumptions for the calculation of these figures differ from those used for calculating the figures in questions 7, 8, and 9, explain, in the attached Statement of Actuarial Assumptions, the reasons for the differences and an estimate of the approximate effect.

11(a). Check "Yes" if rates in contract were used (e.g. purchase rates at retirement).

11(b). Enter Code as follows:

Table	Code
1937 Standard Annuity	1
a–1949 Table	2
Progressive Annuity Table	3
1951 Group Annuity	4
1971 Group Annuity Mortality	5
1971 Individual Annuity Mortality	6
UP–1984	7
Other	8
None	9

Where an indicated table consists of separate tables for males and females, add F to the female table (e.g. 4F). When a projection is used with a table, follow the code with "P" and the year of projection (omit year if projection unrelated to a single calendar year); the identity of the projection scale should be omitted. When an age set back or set-forward is used, indicate with "–" or "+" and the years. For example, if for females the 1951 Group Annuity Table with Projection C to 1971 is used with a 5-year setback, enter "4P71–5." If the table is not one of those listed, enter "8" with no further notation. If the valuation assumes a maturity value to provide the post-retirement income without separately identifying the mortality, interest and expense elements, under "post-retirement" enter on 11(b) the value of $1.00 of monthly pension beginning at the age shown on 11(d) assuming the normal form of annuity for an unmarried person; in this case enter "N/A" on 11(c) and 11(e).

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11(c). Enter assumption as to expected interest rate (investment return). If the assumed rate varies with the year, enter the weighted average of the assumed rate for 20 years following the valuation date.

11(d). If each participant is assumed to retire at his normal retirement age, enter "NRA"; otherwise enter the assumed retirement age. If the valuation uses rates of retirement at various ages, enter the estimated average whole age at which participants are assumed to retire.

11(e). If there is no expense loading, enter 0. If there is a single expense loading not separately identified as pre-retirement or post retirement, enter it under pre-retirement and enter "N/A" under post-retirement. Where expenses are assumed other than as a percent of plan costs or liabilities, enter the assumed expense as a percent of the calculated normal cost.

11(f). Enter rates to nearest 0.1%. For value of accrued benefits, withdrawal rates should not be used for vested benefits and nonvested benefits (historical); rate shown will be that used for nonvested benefits (projected). If select and ultimate rates which vary with both age and years of service are used, enter rates for a new participant at the age shown and enter "S" before the rate.

11(g). Enter salary increase rate for the age indicated to the nearest 0.1%. For value of accrued benefits, salary increase assumption is only to be used for projected total accrued benefits, and the assumption used for that purpose should be indicated.

11(h). For plans with social security offset provisions, indicate whether an assumption has been made concerning projected increases in social security benefits related to increases in the taxable wage base and/or the Consumer Price Index.

Statement of Actuarial Assumptions and Methods

Attach a statement of actuarial assumptions used (if not fully described by item 11), actuarial methods used to determine (i) the normal cost and liabilities shown in items 5, 7, 8 and 9 (if not fully described by item 10) and (ii) the value of assets shown on line 7(b). The statement is to include a summary of the principal eligibility and benefit provisions upon which the valuation was based, an identification of benefits not included in the calculation, and other facts, such as any change in actuarial assumptions or cost methods and justifications for any such change. Include also such other information, if any, needed to fully and fairly disclose the actuarial position of the plan.

Signed at Washington, D.C., this 20th day of September 1978.

J. VERNON BALLARD,
Deputy Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration.

[FR Doc. 78-26842 Filed 9-20-78; 3:15 pm]

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