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FRIDAY, OCTOBER 13, 1978



highlights

HOW TO USE THE FEDERAL REGISTER

ALBANY, NEW YORK, AND DALLAS, FORT WORTH, AND AUSTIN, TEXAS, WORKSHOPS

See inside cover for details.

SUNSHINE ACT MEETINGS 47359

FLOOD PLAIN MANAGEMENT AND WETLANDS PROTECTION
Interior/HCRS issues document implementing Executive orders 11988 and 11990 (Part III of this issue) 47451

ESCALATORS
CPSC denies petition to develop mandatory safety standards 47236

POLLUTION
EPA extends comment period for the National Pollutant Discharge Elimination System (NPDES); comments by 11-20-78 47213

MINE SAFETY
Labor/MSHA implements rules setting forth requirements for obtaining approval of training programs and specifying the kinds of training; effective 10-13-78 (Part IV of this issue) 47454

PROGESTATIONAL DRUG PRODUCTS
HEW/FDA requires labeling concerning risks of use during early stages of pregnancy; effective 12-12-78 47178

ESTROGENIC, ORAL CONTRACEPTIVE AND PROGESTATIONAL DRUG PRODUCTS
HEW/FDA proposes to amend patient-labeling requirements to permit dispensers to use uniform or "generic" labeling; comments by 12-12-78 47198

HEALTH CARE PROFESSIONAL STANDARDS REVIEW ORGANIZATION
HEW/HCFA proposes regulations on the imposition of sanctions on practitioners and providers of services; comments by 12-12-78 (Part VI of this issue) 47474

BAKERY PRODUCTS
HEW/FDA amends standards of identity for bread, rolls, and buns; objections by 11-13-78; effective 11-14-78 47177

RESPIRATORY PROTECTIVE APPARATUS
Labor/MSHA proposes to extend the cutoff dates for use of certain self-contained breathing apparatus approved under the

CONTINUED INSIDE

HOW TO USE THE FEDERAL REGISTER WORKSHOPS

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

WHAT: Free public workshops (approximately 2½ hours) to present:

1. Brief history of the Federal Register system.
2. Difference between legislation and regulations.
3. Relationship of Federal Register and the Code of Federal Regulations.
4. Important elements of a typical Federal Register document.
5. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them, as part of the General Services Administration's efforts to encourage public participation in government actions. There will be no discussion of specific agency regulations.

ALBANY, NEW YORK

WHEN: October 27 and 28, 1978, at 1:00 p.m.
WHERE: Meeting Room No. 1, Cultural Education Center, Empire State Plaza, Albany, New York.
RESERVATIONS: Call Elizabeth Closson, 518–474–5943.

DALLAS, TEXAS

WHEN: October 30, 1978, at 9:30 a.m.
WHERE: Conference Room 7A23, Earle Cabell Federal Building, 1100 Commerce St., Dallas, Texas.
RESERVATIONS: Call Federal Information Center, 214–749–2131.

FORT WORTH, TEXAS

WHEN: October 31 1978, at 9:30 a.m.
WHERE: Auditorium, 7th Floor, Lone Star Gas Co., 908 Monroe St., Fort Worth, Texas.
RESERVATIONS: Call Federal Information Center, 817–334–3624.

AUSTIN, TEXAS

WHEN: November 2, 1978, at 2 p.m.
WHERE: Room 1008, Regan Office Building, 15th & Congress Sts., Austin, Texas.
RESERVATIONS: Call Peggy Lockhart or Bob Walton, 512–475–6725.

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Code of Federal Regulations (CFR)	523–3419
	523–3517
Finding Aids	523–5227

PRESIDENTIAL PAPERS:	
Executive Orders and Proclamations.	523–5233
Weekly Compilation of Presidential Documents.	523–5235
Public Papers of the Presidents	523–5235
Index	523–5235
PUBLIC LAWS:	
Public Law dates and numbers	523–5266
	523–5282
Slip Laws	523–5266
	523–5282
U.S. Statutes at Large	523–5266
	523–5282
Index	523–5266
	523–5282
U.S. Government Manual	523–5230
Automation	523–3408
Special Projects	523–4534

HIGHLIGHTS—Continued

former Bureau of Mines approval program; comments by 11–13–78 ..... **47212**

1981 AUTOMOBILE COMPANY EMISSION STANDARDS

EPA issues guidelines for applications for waiver of carbon monoxide standard **47272**

DENTAL HEALTH

HEW/HRA announces availability of applications for expanded function auxiliary training grants **47285**

AGRICULTURAL CONSERVATION PROGRAM

USDA/ASCS issues notice of intent for decisionmaking on the 1979 program and opportunity for public comment; comments by 10–30–78 ..... **47224**

METAL AND NONMETAL MINES

Labor/MSHA extends comment period to 11–3–78 concerning mandatory existing safety and health advisory standards **47213**

INK CARTRIDGES

CPSC promulgates rule exempting certain writing instrument cartridges from the Federal Hazardous Substances Act; effective 10–13–78 ..... **47174**

INDIANS

Interior/BIA amends ordinance legalizing the introduction, sale, or possession of intoxicating beverages on the Rosebud Reservation, South Dakota **47291**

CANNED PINEAPPLE JUICE

HEW/FDA issues notice of interim soluble solids level for pineapple juice from concentrate **47284**

EMPLOYEES' PERSONAL PROPERTY CLAIMS

CSC revises regulations; effective 10–13–78 ..... **47163**

MEETINGS—

Commerce/NOAA: Gulf of Mexico Fishery Management Council; Groundfish Advisory Subpanel, 10–30 and 10–31–78 ..... **47234**

South Atlantic Fishery Management Council, 10–31 through 11–2–78 ..... **47234**

DOE/BPA: Draft Environmental Statement, 11–14 and 11–16–78 ..... **47243**

EPA: Science Advisory Board Executive Committee, 10–30 and 10–31–78 ..... **47279**

FHLBB: Federal Savings and Loan Advisory Council, 11–13 through 11–15–78 ..... **47283**

HEW/HDSO: Federal Council on the Aging, 10–26 and 10–27–78 ..... **47290**

NIH: Board of Scientific Counselors, NICHD, 11–13–78 ..... **47287**

Board of Scientific Counselors, NEI, 12–18 and 12–19–78 ..... **47287**

Clinical Cancer Education Committee, 11–1 and 11–2–78 ..... **47287**

National Cancer Advisory Board and President's Cancer Panel, 11–20 and 11–21–78 ..... **47288**

Recombinant DNA Advisory Committee, 10–30 and 10–31–78 ..... **47288**

Review of Grant Applications; Advisory Committees, 11–1, 11–6, 11–7, 11–16, and 11–17–78 ..... **47288**

Secy: Technical Consultant Panel on the Health Interview Survey of the United States National Committee on Vital and Health Statistics, 10–24 and 10–25–78 ..... **47289**

Interior/NPS: Cape Cod National Seashore Advisory Commission, 11–3–78 ..... **47300**

Voyageurs National Park; Draft Master Plan and of Availability of Draft Master Plan and Draft Environmental Statement, 11–13 through 11–18–78 ..... **47301**

Labor/BLS: Labor Research Advisory Council Committees, 10–31 through 11–2–78 ..... **47301**

OSHA: Federal Advisory Council on Occupational Safety and Health, 10–31–78 ..... **47302**

NASA: NASA Advisory Council; Aeronautics Advisory Committee, 10–18–78 ..... **47332**

National Commission on Unemployment Compensation, 10–19 through 10–21–78 ..... **47332**

NSF: Advisory Committee for Chemistry, 10–30 and 10–31–78 ..... **47332**

Subcommittee on Cell Biology, 10–30, 10–31, and 11–1–78 47333
Subcommittee for Geography and Regional Science, 10–30–78 47333
Subcommittee on Economics of the Advisory Committee for Social Sciences, 11–3 and 11–4–78 47333
Subcommittee on History and Philosophy of Science of the Advisory Committee for Social Sciences, 10–30–78 .. 47333
Subcommittee on Social and Developmental Psychology, 11–2 and 11–3–78 47334
Subcommittee on the Materials Research Laboratories of the Advisory Committee for Materials Research, 11–2 and 11–3–78 47334
Subcommittee to Review the Structural, Materials and Geotechnical Engineering and Water Resources, Urban and Environmental Engineering Programs of the Advisory Committee for Engineering, 11–2 and 11–3–78 47334
NRC: Advisory Committee on Reactor Safeguards; Subcommittee on the Surry Power Plant, Units 1 and 2, 10–28–78 . 47335
SBA: Region I Advisory Council, 10–30–78 47338
Region I Advisory Council, 10–31–78 47339
State: Fine Arts Committee, 11–13–78 47339

RESCHEDULED MEETINGS—

Commerce/NOAA: North Pacific Fishery Management Council, 11–1–78 changed to 10–25 and 10–26–78 47234
HEW/NIH: Data Evaluation/Risk Assessment Subgroup, 10–25–78 47287

CANCELLED MEETINGS—

Commerce/ITA: Telecommunications Equipment Technical Advisory Committee, 10–17–78 47234
HEW/FDA: Microbiology Devices Section of the Immunology and Microbiology Devices Panel, 10–31 and 11–1–78 47285
NIH: Experimental Design Subgroup, 10–25–78 47287

HEARINGS—

CRC: Legal developments constituting a denial of equal protection under Constitutional law, 11–14–78 47224
OMB/OFPP: Organizational Conflicts of Interest, 11–17–78 47480

SEPARATE PARTS OF THIS ISSUE

Part II, Labor/ESA 47422
Part III, Interior/HCRS 47449
Part IV, Labor/MSHA 47454
Part V, DOD/Army Corps of Engineers 47470
Part VI, HEW/HCFA 47474
Part VII, OMB/OFPP 47480

contents

AGING, FEDERAL COUNCIL

Notices

Meetings:
Council on Aging 47290

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

Notices

Rural environmental programs, National:
Decisionmaking on 1979 conservation program, inquiry .. 47224

AGRICULTURE DEPARTMENT

See Agricultural Stabilization and Conservation Service; Animal and Plant Health Inspection Service; Commodity Credit Corporation.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

Rules

Animal and poultry import restrictions:
Brucellosis 47168

ARMY DEPARTMENT

See also Engineers Corps.

Notices

Discharge Review Boards; index modification 47237

BLIND AND OTHER SEVERELY HANDICAPPED, COMMITTEE FOR PURCHASE FROM

Notices

Procurement list, 1978; additions and deletions (2 documents) 47235, 47236

BONNEVILLE POWER ADMINISTRATION

Notices

Environmental statements, availability, etc.:
Bonneville proposed program for 1980 FY; meetings..... 47243

CIVIL RIGHTS COMMISSION

Notices

Hearing 47224

CIVIL SERVICE COMMISSION

Rules

Excepted service:
Entire executive civil service; employment of students..... 47167
Health, Education, and Welfare Department 47168
Labor Department 47167
Smithsonian Institution 47168
Temporary Boards and Commissions 47167
Personal property claims, employees' 47163

Notices

Ecologist, Federal; minimum educational requirements..... 47225

COMMERCE DEPARTMENT

See Industry and Trade Administration; National Oceanic and Atmospheric Administration.

COMMODITY CREDIT CORPORATION

Proposed Rules

Loan and purchase programs:
Tobacco; correction 47197

CONSUMER PRODUCT SAFETY COMMISSION

Rules

Hazardous substances and articles; administration and enforcement:
Writing instrument cartridges, rigid or semi-rigid; exemption from labeling requirements 47174

Proposed Rules

Benzene in consumer products as ingredient or contaminant:
Product ban; extension of time 47197

Notices

Escalators; safety standards; petition denied..... 47236

CUSTOMS SERVICE

Notices

Countervailing duty petitions and preliminary determinations:
Textiles and textile products from Argentina et al 47340

DEFENSE DEPARTMENT

See also Army Department; Engineers Corps.

Proposed Rules

Federal Procurement Policy Office; procurement regulations on organizational conflicts of interest; inquiry 47480

ECONOMIC REGULATORY ADMINISTRATION

Notices

Environmental statements; availability, etc.:
New England Electric System/New England Power Co.; powerplant prohibition order; availability and hearings 47243
Power rates and charges:
Hanford Generating Project .. 47244

EMPLOYMENT AND TRAINING ADMINISTRATION

Notices

Employment transfer and business competition determinations; financial assistance applications..... 47302

EMPLOYMENT STANDARDS ADMINISTRATION

Notices

Minimum wages for Federal and federally-assisted construction; general wage determination decisions, modifications, and supersedeas decisions (Ala., Conn., Ga., La., Minn., Miss., S.C., Va., Wash., D.C., W. Va.) 47422

ENERGY DEPARTMENT

See Bonneville Power Administration; Economic Regulatory Administration; Federal Energy Regulatory Commission; Hearings and Appeals Office, Energy Department.

ENGINEERS CORPS

Rules

Flood control:
Reservoir projects; allocated storage use 47184
Water resources policies and authorities:
Federal participation in covered flood control channels 47470

ENVIRONMENTAL PROTECTION AGENCY

Proposed Rules

Air quality implementation plans; enforcement by State and Federal governments after statutory deadlines:
Virginia 47214
Pesticide programs:
Exemption and registration procedures 47215
Water pollution control:
Hazardous substances pollution, best management practices for on-site industrial activities, and national pollutant discharge elimination system; extensions of time... 47213

Notices

Air pollution control, new motor vehicles and engines:
1981 automobile CO emission standards..... 47272
Meetings:
Science Advisory Board 47279
Pesticide applicator certification and interim certification; State plans:
Nebraska..... 47279
Pesticides; tolerances, registration, etc.:
Botran 75W 47281

FEDERAL COMMUNICATIONS COMMISSION

Proposed Rules

Aviation services and frequency allocations and radio treaty matters:

Aeronautical advisory frequencies, use by aeronautical utility mobile stations 47218
Radio broadcast services, etc.:
Multiple ownership of AM, FM and television stations and CATV systems; extension of time 47222
Television broadcast stations; table of assignments:
Kansas 47221

Notices

FM broadcast applications ready and available for processing 47282
Hearings, etc.:
Faith Center, Inc. 47282
Trans Regional Air, et al 47282

FEDERAL ENERGY REGULATORY COMMISSION

Notices

Hearings, etc.:
Adobe Oil & Gas Corp 47251
Arkansas Louisiana Gas Co 47245
Bayou State Oil Corp 47252
Bear Creek Storage Co. et al .. 47245
CIG Exploration, Inc 47258
Cities Service Gas Co 47259
Columbia Gas Transmission Corp. (2 documents) 47245
Columbia Gulf Transmission Co. et al 47252
Consolidated Gas Supply Corp 47246
Consolidated Gas Supply Corp. et al 47252
Distrigas of Massachusetts Corp 47246
Gas Rock Corp. et al 47258
Hunt, E.L., estate 47253
Kentucky Utilities Co 47246
Lawrenceburg Gas Transmission Corp 47259
MAPCO Inc 47259
Metropolitan Sanitary District of Greater Chicago 47254
Michigan Wisconsin Pipe Line Co 47254
Mid-Continent Gas Storage Co. et al 47259
Minnesota Power & Light Co 47254
Mountain Fuel Supply Co 47255
Mueller, Joseph P 47254
National Fuel Gas Supply Corp 47247
Natural Gas Pipeline Co. of America (2 documents) 47255, 47256
New Bedford Gas & Edison Light Co 47248
New York State Electric & Gas Corp. (2 documents) 47248, 47256
Northwest Pipeline Corp. (3 documents) 47249, 47250, 47261
Northwestern Public Service Co 47256
Power Authority of State of New York 47261
Public Service Co. of Colorado 47262
Public Service Co. of Indiana, Inc 47257
Southern Natural Gas Co. (2 documents) 47257, 47263
Stingray Pipeline Co 47251
Sun Oil Co 47263
Tennessee Gas Pipeline Co 47263
Texas Eastern Transmission Corp 47257
Tipperary Oil & Gas Corp 47264
Transcontinental Gas Pipe Line Corp. (2 documents) 47257, 47264
Trunkline Gas Co 47251
Vidalia, Town of, LA 47251
Young Refining Corp 47265

FEDERAL HOME LOAN BANK BOARD

Notices

Meetings:
Federal Savings and Loan Advisory Council 47283

FEDERAL INSURANCE ADMINISTRATION

Proposed Rules

Flood elevation determinations:
Alabama (2 documents) 47201, 47202
Arizona (2 documents) 47203
Arkansas (2 documents) 47203, 47204
Connecticut 47204
Florida (2 documents) 47205
Idaho (2 documents) 47206
Illinois 47207
Kentucky 47208
Louisiana 47208
Maine (2 documents) 47208
Massachusetts 47210
Michigan; correction 47211

FEDERAL MARITIME COMMISSION

Notices

Agreements filed, etc 47284

FEDERAL PROCUREMENT POLICY OFFICE

Proposed Rules

Organizational conflicts of interest; inquiry 47480

FEDERAL TRADE COMMISSION

Rules

Prohibited trade practices:
Public Service Co. of Colorado 47173

Proposed Rules

Credit practices; trade practice rule; report availability 47197

FISH AND WILDLIFE SERVICE

Rules

Hunting:
Muscatatuck National Wildlife Refuge, Ind 47196

FOOD AND DRUG ADMINISTRATION

Rules

Bakery products; identity standards for bread, rolls, and buns 47177
Biological products:
Sterility test by membrane filtration 47182
Human drugs:
Progestational drug products; patent labeling requirements 47178

Proposed Rules

Human drugs:
Estrogenic, oral contraceptive, and progestational drug products; patient labeling requirements 47198

Notices

Meetings:
Microbiology Devices Section of the Immunology and Microbiology Devices Panel 47285
Pineapple juice, canned; quality standards 47284

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See also Food and Drug Administration; Health Care Financing Administration; Health Resources Administration; Human Development Services Office; National Institutes of Health; Public Health Service.

Proposed Rules

Procurement; contract clauses and administration 47217

Notices

Organization, functions, and authority delegations:
Education Office 47290
National Institutes of Health; Medical Applications Office 47285

HEALTH CARE FINANCING ADMINISTRATION

Proposed Rules

Professional standards review:
Sanctions on health care practitioners and providers of health care services 47474

HEALTH RESOURCES ADMINSTRATION

Notices

Grants; applications:
Dental auxiliary training programs 47285

HEARINGS AND APPEALS OFFICE, ENERGY DEPARTMENT

Notices

Applications for exception:
Cases filed (2 documents) 47268, 47269
Decisions and orders 47267
Applications for exception procedures 47265

HERITAGE CONSERVATION AND RECREATION SERVICE

Notices

Floodplains management and wetlands protection; implementation procedures; availability 47449

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

See Federal Insurance Administration.

HUMAN DEVELOPMENT SERVICES OFFICE

Proposed Rules

Handicapped individuals; evaluation standards; revision 47218

INDIAN AFFAIRS BUREAU

Notices

Alcoholic beverages, introduction, sale and possession; legalizing:
Rosebud Indian Reservation, S. Dak 47291

INDUSTRY AND TRADE ADMINISTRATION

Rules

Export licensing:
Individual validated licenses; application procedures 47171
Non-agricultural commodities; short supply controls and monitoring 47172

Notices

Meetings:
Telecommunications Equipment Technical Advisory Committee; cancellation 47234
Scientific articles; duty free entry:
National Radio Astronomy Observatory Associated Universities, Inc 47225
Richard B. Russell Agricultural Research Center 47225
University of California et al .. 47230
University of Florida et al 47232
University of Illinois 47229
University of Wisconsin 47230

INTERIOR DEPARTMENT

See also Fish and Wildlife Service; Heritage Conservation and Recreation Service; Indian Affairs Bureau; Land Management Bureau; National Park Service.

Notices

Committees; establishment, renewals, terminations, etc.:
National Park System Advisory Board Council 47301

INTERNAL REVENUE SERVICE

Proposed Rules

Income taxes:
Creditable foreign taxes requirements; inquiry; extension of time 47211

INTERSTATE COMMERCE COMMISSION

Notices

Motor carriers:
Emergency need for transportation services, temporary authority applications; revised list of officials 47344
Temporary authority applications (3 documents) ... 47344, 47350, 47357
Transfer proceedings 47357

LABOR DEPARTMENT

See also Employment and Training Administration; Employment Standards Administration; Labor Statistics Bureau; Mine Safety and Health Administration; Occupational Safety and Health Administration.

Notices

Adjustment assistance:
Aquada Products, Inc 47325
Delton Clothing, Ltd 47325
Emil Fashions, Inc 47326
Fur Modes, Inc 47326
George Heller, Inc 47326
Goldman, William P., & Brothers 47324
Hoffman, M., Co., Inc 47306
Irving Sportswear 47327
J & R Manufacturing Co., Inc 47327
Kennecott Copper Corp. (4 documents) 47303
Kirson Handbags, Inc 47303
Lamay Coat Co 47304
Lamson & Sessions Co 47317
Lexcraft, Inc 47328
Manhattan Shirt Co., Inc 47304
Miami-Inspiration Hospital, Inc 47306
Michelle Rena Fashions, Inc .. 47305
Mighty Mac, Inc 47307
Milt Posner Fur Corp 47305
Needlecraft Dress Manufacturing Co., Corp., et al 47307
Norrwock Shoe Co 47307
Nu Look Manufacturing Co ... 47308
Pacific Motor Trucking Co 47328
Paley Associates, Inc 47308
Pam Coat Co., Inc 47308
Paul Terri Sportswear, Inc 47309
Pennsylvania Tire & Rubber Co. of Mississippi, Inc 47309
Pisces Fashions, Inc 47310
Pittsburgh & Lake Erie Railroad 47310
Precision Gas Products, Inc 47311
Primo Coat Corp 47311
Publicker Industries, Inc 47311
Q & T Coat Corp 47312
RCA Corp 47312
RCR Sportswear, Inc 47329
Remm Fashions, Inc 47329
Riveredge Corp 47313
Ro Tarr Fashions, Inc 47329
Robinson Excavating & Trucking 47313
Roman Ceramics Corp 47314
Rose Marie Coat Co 47314
S & B Coat Co 47314
S & F Coat Co., Inc 47314
Senate Button Co 47315
Siluria Textiles, Inc 47315
Sportswear International, Inc. 47316
St. Louis-San Francisco Railroad 47316
Stylish Sportswear Co., Inc 47330
Super Craft Coats, Inc 47316
Teledyne Vasco, Inc 47317
Textron, Inc 47330
Tiara Coat Fashions, Inc 47330
Titanium Metals Corp. of America 47318
Tony's Outlet, Inc 47318
Union Carbide Corp 47318
Uptegraff Transformer Co 47319
Valley Manufacturing Co. (3 documents) 47319-47321
Venus Coat Co 47331
Vulcan Corp 47321
Wean United, Inc 47322
Webster Sportswear Corp 47322
Werthan Industries, Inc 47322
Wheeling-Pittsburgh Steel Corp. (2 documents) 47323
W & W Electronics 47324

LABOR STATISTICS BUREAU

Notices

Meetings:
Labor Research Advisory Council Committees 47301

LAND MANAGEMENT BUREAU

Notices

Applications, etc.:
New Mexico (3 documents) 47299, 47300
Wyoming (4 documents) 47297, 27298
Environmental statements; availability, etc.:
Livestock grazing on public lands, 1980 through 1982 FYs 47298
Meetings:
California Desert Conservation Area Advisory Committee 47297
Survey plat filings:
California (2 documents) 47296, 47297

LIBRARIES AND INFORMATION SCIENCE, NATIONAL COMMISSION

Rules

Privacy Act; implementation 47195

Notices

Privacy Act; systems of records .. 47332

MANAGEMENT AND BUDGET OFFICE

See also Federal Procurement Policy Office.

Notices

Clearance of reports; list of requests (2 documents) 47335, 47336

MEXICO AND UNITED STATES, INTERNATIONAL BOUNDARY AND WATER COMMISSION

Rules

Privacy Act; systems of records; nomenclature change 47182

MINE SAFETY AND HEALTH ADMINISTRATION

Rules

Health and safety training of miners 47454

Proposed Rules

Metal and nonmetallic mine safety:
Open pit mines, underground mines, etc.; health and safety standards; extension of time 47213
Respiratory protective devices; use:
Self-contained breathing apparatus 47212

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Notices

Committees; establishment, renewals, terminations, etc.:
Wage Committee 47332
Meetings:
Aeronautics Advisory Committee 47332
Patent licenses, exclusive:
Transolar, Inc 47331

NATIONAL INSTITUTES OF HEALTH

Notices

Advisory Committees; annual reports filing 47285
Carcinogenesis bioassay reports; availability:
1-Amino-2-methylanthraquinone 47289
3-Amino-9-ethylcarbazole (hydrochloride) 47289
3-(Chloromethyl) pyridine hydrochloride 47289
Committees; establishments, renewals, terminations, etc.:
Animal Resources Review Committee 47286
National Cancer Institute Committees 47288
Meetings:
Cancer Institute, National; advisory committees 47288
Cancer Panel, President's 47288
Child Health and Human Development National Institute 47287
Clearinghouse on Environmental Carcinogens; cancellation and rescheduling 47287
Clinical Cancer Education Committee 47287
Meetings:
Eye Institute, National, Board of Scientific Counselors 47287
Recombinant DNA Advisory Committee 47288

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Proposed Rules

Fishery conservation and management:
Foreign and domestic fishing; Gulf of Alaska groundfish .. 47222

Notices

Meetings:
Gulf of Mexico Fishery Management Council 47234
North Pacific Fishery Management Council 47234
South Atlantic Fishery Management Council 47234

NATIONAL PARK SERVICE

Notices

Environmental statements; availability, etc.:
Voyageurs National Park; availability and meeting 47301
Meetings:
Cape Cod National Seashore Advisory Commission 47300

NATIONAL SCIENCE FOUNDATION

Notices

Meetings:
Behavioral and Neural Science Advisory Committee 47334
Chemistry Advisory Committee 47332
Engineering Advisory Committee 47334
Materials Research Advisory Committee 47334
Physiology, Cellular and Molecular Biology Advisory Committee 47333
Social Sciences Advisory Committee (3 documents) 47333

NUCLEAR REGULATORY COMMISSION

Notices

Meetings:
Reactor Safeguards Advisory Committee 47335

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

Rules

Construction and health safety standards:
Ground-fault circuit protection 47182

Notices

Meetings:
Occupational Safety and Health Federal Advisory Council 47302

PUBLIC HEALTH SERVICE

Notices

Meetings:
Advisory committees, October 47289

SECURITIES AND EXCHANGE COMMISSION

Rules

Investment Advisers Act:
Brokers and dealers; temporary exemption 47176

Notices

Self-regulatory organizations; proposed rule changes:
Midwest Stock Exchange, Inc 47336

SMALL BUSINESS ADMINISTRATION

Notices

Applications, etc.:
Arlington Venture Capital Corp 47339
Disaster areas:
Texas 47339
Meetings, advisory councils:
Augusta 47339
Boston 47338

STATE DEPARTMENT

Notices

Meetings:
Fine Arts Committee 47339

TEXTILE AGREEMENTS IMPLEMENTATION COMMITTEE

Notices

Cotton textiles:
Brazil 47235

TREASURY DEPARTMENT

See also Customs Service; Internal Revenue Service.

Notices

Organization and functions:
Legal Division 47343

UNEMPLOYMENT COMPENSATION NATIONAL COMMISSION

Notices

Meeting 47332

reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

Rules Going Into Effect Today

FCC—Noncommercial educational FM broadcast stations 39704; 9-6-78
HEW—Procurement regulations 39778; 9-7-78

List of Public Laws

This is a continuing listing of public bills that have become law, the text of which is not published in the FEDERAL REGISTER. Copies of the laws in individual pamphlet form (referred to as "slip laws") may be obtained from the U.S. Government Printing Office.

[Last Listing: October 12, 1978]

H.R. 12930 ..... Pub. L. 95-429
"Treasury, Postal Service, and General Government Appropriations Act, 1979". (Oct. 10, 1978; 92 Stat. 1001). Price: $1.00.

H.R. 11005 ..... Pub. L. 95-430
To provide authorization of appropriations for the United States International Trade Commission for fiscal year 1979. (Oct. 10, 1978; 92 Stat. 1020). Price: $.60.

H.R. 12934 ..... Pub. L. 95-431
"Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1979". (Oct. 10, 1978; 92 Stat. 1021). Price: $1.20.

H.R. 13349 ..... Pub. L. 95-432
To repeal certain sections of title III of the Immigration and Nationality Act, and for other purposes. (Oct. 10, 1978; 92 Stat. 1046). Price: $.60.

H.R. 10581 ..... Pub. L. 95-433
Relating to judgment funds awarded by the Indian Claims Commission to certain Indian tribes, and for other purposes. (Oct. 10, 1978; 92 Stat. 1047). Price: $.60.

H.R. 11400 ..... Pub. L. 95-434
National Science Foundation Authorization Act for fiscal year 1979. (Oct. 10, 1978; 92 Stat. 1049). Price: $.60.

H.R. 9214 ..... Pub. L. 95-435
To amend the Bretton Woods Agreements Act to authorize the United States to participate in the Supplementary Financing Facility of the International Monetary Fund. (Oct. 10, 1978; 92 Stat. 1051). Price: $.60.

S. 409 ..... Pub. L. 95-436
To designate the Meat Animal Research Center located near Clay Center, Nebraska, as the "Roman L. Hruska Meat Animal Research Center". (Oct. 10, 1978; 92 Stat. 1054). Price: $.60.

H.R. 10126 ..... Pub. L. 95-437
Federal Employees Part-Time Career Employment Act of 1978. (Oct. 10, 1978; 92 Stat. 1055). Price: $.70.

S. 425 ..... Pub. L. 95-438
To authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Lieutenant General Ira C. Eaker, United States Air Force (retired). (Oct. 10, 1978; 92 Stat. 1060). Price: $.60.

S. 286 ..... Pub. L. 95-439
To repeal certain requirements relating to notice of animal and plant quarantines, and for other purposes. (Oct. 10, 1978; 92 Stat. 1061). Price: $.60.

S. 1267 ..... Pub. L. 95-440
To amend sections 3303a and 1503 of title 44, United States Code, to require mandatory application of the General Records Schedules to all Federal agencies and to resolve conflicts between authorizations for disposal and to provide for the disposal of Federal Register documents. (Oct. 10, 1978; 92 Stat. 1063). Price: $.60.

S. 2946 ..... Pub. L. 95-441
To authorize the Secretary of Agriculture to relinquish exclusive legislative jurisdiction over lands or interests under his control. (Oct. 10, 1978; 92 Stat. 1064). Price: $.60.

S. 2951 ..... Pub. L. 95-442
To authorize the Secretary of Agriculture to accept and administer on behalf of the United States gifts or devises of real and personal property for the benefit of the Department of Agriculture or any of its programs. (Oct. 10, 1978; 92 Stat. 1065). Price: $.60.

S. 3045 ..... Pub. L. 95-443
To amend the Farm Credit Act of 1971 to extend the term for production credit association loans to producers or harvesters of aquatic products. (Oct. 10, 1978; 92 Stat. 1066). Price: $.60.

S. 3067 ..... Pub. L. 95-444
Civil Rights Commission Act of 1978. (Oct. 10, 1978; 92 Stat. 1067). Price: $.60.

S. 3092 ..... Pub. L. 95-445
Humane Methods of Slaughter Act of 1978. (Oct. 10, 1978; 92 Stat. 1069). Price: $.60.

S. 3274 ..... Pub. L. 95-446
To designate the United States Department of Agriculture's Bee Research Laboratory in Tucson, Arizona, as the "Carl Hayden Bee Research Center". (Oct. 10, 1978; 92 Stat. 1071). Price: $.60.

S. 3036 ..... Pub. L. 95-447
To amend the Coinage Act of 1965 to change the size, weight, and design of the one-dollar coin, and for other purposes. (Oct. 10, 1978; 92 Stat. 1072). Price: $.60.

H.R. 13125 ..... Pub. L. 95-448
Making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1979, and for other purposes. (Oct. 11, 1978; 92 Stat. 1073). Price: $1.10.

S.J. Res. 29 ..... Pub. L. 95-449
To authorize the President to issue a proclamation designating that week in November 1978, which includes Thanksgiving Day as "National Family Week". (Oct. 11, 1978; 92 Stat. 1094). Price: $.60.

H.R. 12026 ..... Pub. L. 95-450
"Indian Peaks Wilderness Area, the Arapaho National Recreation Area and the Oregon Islands Wilderness Area Act". (Oct. 11, 1978; 92 Stat. 1095). Price: $.70.

S. 3467 ..... Pub. L. 95-451
To designate the United States Department of Agriculture's Pecan Field Station in Brownwood, Texas, as the "W. R. 'Bob' Poage Pecan Field Station". (Oct. 11, 1978; 92 Stat. 1100). Price: $.60.

list of cfr parts affected in this issue

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, follows beginning with the second issue of the month.

A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

5 CFR

180 47163
213 (5 documents) 47167, 47168

7 CFR

PROPOSED RULES:

1464 47194

9 CFR

78 47168

15 CFR

372 47171
377 47172

16 CFR

13 47173
1500 47174

PROPOSED RULES:

444 47194
1307 47194

17 CFR

275 47176

21 CFR

136 47177
310 47178
610 47182

PROPOSED RULES:

310 47198

22 CFR

1101 47182

24 CFR

PROPOSED RULES:

1917 (18 documents) ... 47201-47211

26 CFR

PROPOSED RULES:

1 47211

29 CFR

1910 47182
1926 47182

30 CFR

48 47454

PROPOSED RULES:

11 47212
55 47213
56 47213
57 47213

32 CFR

PROPOSED RULES:

Ch. I 47480

33 CFR

208 47184
239 47470

40 CFR

PROPOSED RULES:

6 47213
65 47214
122 47213
123 47213

40 CFR—Continued

PROPOSED RULES—Continued

124 47213
125 47213
151 47213
162 47215

41 CFR

PROPOSED RULES:

Ch. I 47480
3-7 47217
3-57 47217

42 CFR

PROPOSED RULES:

455 47474
474 47474

45 CFR

1705 47195

PROPOSED RULES:

1370 47218

47 CFR

PROPOSED RULES:

2 47218
73 (2 documents) 47221, 47222
76 47222
87 47218

50 CFR

32 47196

PROPOSED RULES:

611 47222
672 47222

CUMULATIVE LIST OF CFR PARTS AFFECTED DURING OCTOBER

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during October.

1 CFR

Ch. I 45339

3 CFR

EXECUTIVE ORDERS:

11246 (Amended by EO 12086 46501
12010 (Supersed by EO 12087) ... 46823
12085 45337
12086 46501
12087 46823

MEMORANDUMS:

September 26, 1978 46821
September 26, 1978 (Correction) 46953
October 2, 1978 45547

PROCLAMATIONS:

4125 (Revoked in part by Proc. 4604) 45977
4436 (Revoked in part by Proc. 4604) 45977
4604 45977

5 CFR

180 47163
213 ... 45549, 45550, 46287, 47167, 47168
297 46505
539 46287
550 46288

7 CFR

2 45339
29 45340
53 45979
910 46288
927 45341
928 46955
929 46831
948 45979
966 ..... 45342, 46831
1201 46289
1464 46833
1488 45551
1822 45980
1904 46290
1980 ..... 46290, 46505
2852 46291

PROPOSED RULES:

906 46305
946 45375
967 46549
1001 45520
1002 46853
1064 ..... 45881, 46305
1065 45881
1207 45884
1464 47194
1701 45591
1924 46306

9 CFR

78 47168
94 46516
203 ..... 46494, 46955

10 CFR

2 46292
73 45981
205 46517
430 47118
465 45536

PROPOSED RULES:

72 46309
430 45375

12 CFR

5 47156
25 47144
201 45821
207 ..... 45821, 46956
220 ..... 45821, 46956
221 ..... 45821, 46956
224 ..... 45821, 46956
228 47144
262 47157
303 47157
345 47144
521 46836
522 46836
523 46839
524 46841
525 46842
526 46844
527 46846
531 46847
532 46848
543 47160
545 47161
546 47162
562 47162
563 47162
563e 47144
584 47163

PROPOSED RULES:

303 46976
304 46976
328 46976

13 CFR

120 46960
122 46960

PROPOSED RULES:

121 45591

14 CFR

23 46233
25 ..... 46233, 46238
27 46233
29 46233
39 ..... 45343, 45981-45983, 46523, 46960
71 ..... 45343, 45344, 45983-45985, 46524-46526, 46961
73 46961
75 45345
91 46233
95 45985
97 46526
121 ..... 46234, 46782
127 46783

14 CFR—Continued

135 46783
241 46294
1210 45823

PROPOSED RULES:

1 46734
21 46734
23 46734
25 46034
39 ..... 5375-45380, 46037
71 ..... 45381, 45382, 46038, 46549, 46978, 46979
121 46034
135 46734
291 45383
296 45383
399 46980

15 CFR

372 47171
377 47172
386 46962

16 CFR

13 47173
456 46296
1500 47174
1505 45551

PROPOSED RULES:

13 ..... 45593, 46856
306 46550
444 47194
1307 47194

17 CFR

15 45825
19 45825
200 45991
249 46299
275 47176

PROPOSED RULES:

170 46039

18 CFR

1 46528
154 45553

PROPOSED RULES:

Ch. I 45595
803 46980

19 CFR

4 46962

PROPOSED RULES:

6 46981
146 45885

20 CFR

404 45345
416 45554

21 CFR

5 46299
14 45555
136 47177

21 CFR—Continued

146 ... 45556
176 ... 45556
229 ... 46528
310 ... 47178
522 ... 46300
540 ... 46529
558 ... 46300
610 ... 47182
1220 ... 46301

PROPOSED RULES:

16 ... 46321, 46322
20 ... 46321
54 ... 46322
71 ... 46322
74 ... 45611
81 ... 45613
101 ... 45613
170 ... 46322
171 ... 46322
180 ... 46322
182 ... 46550
201 ... 45614
207 ... 45614
310 ... 46322, 47198
312 ... 46322
314 ... 45614, 46322
320 ... 46322
330 ... 46322
350 ... 46694
361 ... 46322
430 ... 46322
431 ... 46322
510 ... 46322
511 ... 46322
514 ... 46322
558 ... 46322
570 ... 46322
571 ... 46322
601 ... 46322
630 ... 46322
812 ... 46321
1003 ... 46322
1010 ... 46322

22 CFR

1100 ... 47182

PROPOSED RULES:

6a ... 46046

23 CFR

630 ... 47138
640 ... 46963
772 ... 45838

24 CFR

260 ... 45557
888 ... 46529
1914 ... 46848, 46966
1916 ... 46970
1917 ... 45558-45580

PROPOSED RULES:

803 ... 46552
888 ... 46552
1917 ... 45383-45398, 47201-47211

25 CFR

258 ... 46971

PROPOSED RULES:

700 ... 46047

26 CFR

1 ... 45582

PROPOSED RULES:

1 ... 46859, 47211

28 CFR

0 ... 45992
16 ... 45992, 45993
50 ... 45992

PROPOSED RULES:

2 ... 46859

29 CFR

1910 ... 45762, 46322, 47182
1926 ... 47182
2700 ... 46531

PROPOSED RULES:

2200 ... 46047
2201 ... 46047
2610 ... 46868

30 CFR

48 ... 47454

PROPOSED RULES:

Ch. VII ... 45886
11 ... 47212
55 ... 47213
56 ... 47213
57 ... 47213
715 ... 46048

32 CFR

Ch. XX ... 46280
242b ... 46531
552 ... 46971

PROPOSED RULES:

Ch. I ... 47480

33 CFR

165 ... 46532
208 ... 47184
239 ... 47470

PROPOSED RULES:

175 ... 45399

36 CFR

7 ... 46849

PROPOSED RULES:

223 ... 46323

38 CFR

3 ... 45347
4 ... 45348
14 ... 46530

PROPOSED RULES:

21 ... 45399
36 ... 45400

39 CFR

111 ... 45838, 45839

40 CFR

35 ... 47130
50 ... 46246
51 ... 46264
81 ... 45993
86 ... 45583
180 ... 45362, 45583, 46537
422 ... 46020

40 CFR—Continued

PROPOSED RULES:

6 ... 47213
51 ... 46272, 46275
52 ... 45401, 46553, 46554, 46869, 46870
53 ... 46272
65 ... 45402-45410, 47214
87 ... 45411
122 ... 47213
123 ... 47213
124 ... 47213
125 ... 47213
151 ... 47213
162 ... 46555, 47215
180 ... 45412

41 CFR

Ch. 101 ... 45842
1-3 ... 46302
8-12 ... 45363
14-1 ... 45584
14-55 ... 45584

PROPOSED RULES:

Ch. I ... 47480
3-7 ... 47217
3-57 ... 47217
51-1 ... 45413
101-20 ... 46555

42 CFR

PROPOSED RULES:

50 ... 46871
455 ... 47474
474 ... 47474

43 CFR

422 ... 46538

PUBLIC LAND ORDER:

5648 ... 46850

45 CFR

100a ... 46020
104 ... 46020
180 ... 46020, 46021
232 ... 45747
233 ... 45585
302 ... 45751
1201 ... 46021, 46022
1705 ... 47195

PROPOSED RULES:

Ch. XIII ... 46871
100b ... 46871
206 ... 45887
233 ... 45887, 45888
1370 ... 47218

46 CFR

50 ... 46545
56 ... 46545
71 ... 46546
91 ... 46546
111 ... 46546
189 ... 46546
528 ... 46972

PROPOSED RULES:

25 ... 45399

47 CFR

0 ... 46326
1 ... 45842

47 CFR—Continued

2 46326
18 46326
73 ..... 45842, 46972
83 45364

PROPOSED RULES:

1 ..... 46658, 46982
2 47218
21 46983
42 45892
43 45892
73 ..... 45620, 45895, 45899, 46048, 46049, 46871-46876, 47221, 47222
76 47222
83 45901
87 47218

49 CFR

106 45366
107 45366

49 CFR—Continued

533 46546
571 ..... 45366, 46547
1033 ..... 45586, 45587, 45863, 45865, 45866, 45868, 46850
1056 46548
1121 45588
1207 46974
1249 46974
1252 46851

PROPOSED RULES:

Ch. II 45903, 45905, 46052
Ch. X 46877
172 46050
195 46051
215 45414
218 ..... 45416, 46555
393 46555
1062 46053

50 CFR

10 45370
17 45759
18 45370
20 45588
26 45374
32 ..... 46029-46032, 46548, 47196
33 45869
216 46975
258 45869
651 45872
652 46033

PROPOSED RULES:

17 ..... 45512, 45513
226 45905
611 ..... 46054, 46349, 47222
652 46880
672 ..... 46349, 47222
675 45909

FEDERAL REGISTER PAGES AND DATES—OCTOBER

Pages	*Date*	*Pages*	*Date*	*Pages*	*Date*
45337-45545	Oct. 2	45977-46285	5	46821-46951	11
45547-45819	3	46287-46499	6	46953-47162	12
45820-45975	4	46501-46820	10	47163-47484	13

rules and regulations

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

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

[6325-01-M]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 180—EMPLOYEES' PERSONAL PROPERTY CLAIMS

Revision of Personal Property Claims Regulations

AGENCY: Civil Service Commission.

ACTION: Final.

SUMMARY: The Civil Service Commission is revising Part 180 of Title 5, Code of Federal Regulations. A review of claims filed under current regulations indicates a need to revise the regulations to more fully comport with the apparent intent of the governing statute—the Military Personnel and Civilian Employees' Claims Act of 1964, 31 U.S.C. § 240 to 243.

EFFECTIVE DATE: October 13, 1978

FOR FURTHER INFORMATION CONTACT:

John Murphy, Office of the General Counsel, U.S. Civil Service Commission, 1900 E Street NW., Washington, D.C. 20415 202-632-7600.

Accordingly, 5 CFR Part 180 is revised as set forth below:

Sec.

180.101 Scope and purpose.
180.102 Claimants.
180.103 Time limitations.
180.104 Allowable claims.
180.105 Claims not allowed.
180.106 Claims involving carriers and insurers.
180.107 Claims procedure.
180.108 Settlement of claims.

AUTHORITY: Sec. 3, 78 Stat. 767, as amended; 31 U.S.C. 241.

§ 180.101 Scope and purpose.

(a) The Military Personnel and Civilian Employees' Claims Act of 1964, 31 U.S.C. 240 to 243, authorizes the Chairman of the Civil Service Commission to settle and pay (including replacement in kind) claims of officers and employees of the Commission, amounting to not more than $15,000, for damage to or loss of personal property incident to their service. Claims are payable only for such types, quantities, or amounts of tangible personal property (including money) as the approving authority shall determine to be reasonable, useful, or proper under the circumstances existing at the time and place of the loss. In determining what is reasonable, useful, or proper, the approving authority will consider the type and quantity of property involved, circumstances attending acquistion and use of the property, and whether possession or use by the claimant at the time of damage or loss was incident to service.

(b) The Government does not underwrite all personal property losses that a claimant may sustain and it does not underwrite individual tastes. While the Government does not attempt to limit possession of property by an individual, payment for damage or loss is made only to the extent that the possession of the property is determined to be reasonable, useful, or proper. If individuals possess excessive quantities of items, or expensive items, they should have such property privately insured.

§ 180.102 Claimants.

(a) The following are proper claimants:

(1) Officers and employees of the Commission;

(2) Former officers and employees of the Commission whose claims arose out of incidents which occurred before their separation;

(3) The authorized agent or legal representative of persons in §§ 180.102(a)(1) and 180.102(a)(2);

(4) Survivors of persons in §§ 180.102(a)(1) and 180.102(a)(2) in the following order of precedence:

(i) Spouse,

(ii) Children,

(iii) Father or mother, or both,

(iv) Brothers or sisters, or both.

(b) A claim may not be presented by or for the benefit of a subrogee, assignee, conditional vendor, or other third party.

§ 180.103 Time limitations.

A claim must be presented in writing within 2 years after it accrues, except during war or armed conflict. If war or armed conflict occurs within the 2-year period following accrual, when claimant shows good cause, the claim may be presented within 2 years after the cause ceases to exist but not more than 2 years after termination of the war or armed conflict. A claim accrues when loss or damage is or should have been discovered by claimant even though such loss or damage occurred at a prior time.

§ 180.104 Allowable claims.

(a) A claim may be allowed only if:

(1) The damage or loss was not caused wholly or partly by the negligent or wrongful act of the claimant, claimant's agent, a member of claimant's family, or claimant's private employee (the standard to be applied is that of reasonable care under the circumstances);

(2) The possession of the property damaged or lost and the quantity possessed is determined to have been reasonable, useful, or proper under the circumstances; and

(3) The claim is substantiated by proper and convincing evidence.

(b) Claims which are otherwise allowable under this part shall not be disallowed solely because the property was not in the possession of the claimant at the time of the damage or loss or solely because the claimant was not legal owner of the property for which the claim is made. For example, borrowed property may be the subject of a claim.

(c) Subject to the conditions in § 180.104(a) and the other provisions of this part, any claim for damage to or loss of personal property incident to service with the Commission may be considered and allowed. The following are examples of the principal types of claims which may be allowed. These examples are not exclusive and other types of claims may be allowed unless excluded by § 180.106:

(1) *Property damaged or lost in quarters.* Claims may be allowed for damage to or loss of property located at:

(i) Quarters within the 50 States and the District of Columbia that were assigned to the claimant or otherwise provided in kind by the United States;

(ii) Quarters outside the 50 States and the District of Columbia that were occupied by the claimant, whether or not they were assigned or otherwise provided in kind by the United States, except when the claimant is a local inhabitant; or

(iii) Any warehouse, office, working area, or other place (except quarters) authorized or apparently authorized for the reception or storage of property.

(2) *Transportation or travel losses.* Claims may be allowed for damage to or loss of property incident to transportation or storage pursuant to orders, or in connection with travel under orders, including property in custody of a carrier, an agent or agency of the Government, or the claimant.

(3) *Motor vehicles.* Claims may be allowed for automobiles and other motor vehicles damaged or lost in oversea shipments provided by the Government. "Shipments provided by the Government" means via Government vessels, charter of commercial vessels, or by Government bills of lading on commercial vessels, and includes storage, unloading, and offloading incident thereto. Other claims for damage to or loss of automobiles and other motor vehicles may be allowed only when use of the vehicle on a non-reimbursable basis was required by the claimant's supervisor.

(4) *Mobile homes.* Claims may be allowed for damage to or loss of mobile homes and their contents under the provisions of § 180.104(c)(2). Claims for structural damage to mobile homes, other than that caused by collision, and damage to contents of mobile homes resulting from such structural damage must contain conclusive evidence that the damage was not caused by structural deficiency of the mobile home and that it was not overloaded. Claims for damage to or loss of tires mounted on mobile homes may be allowed only in cases of collision, theft, or vandalism.

(5) *Money.* Claims for money in an amount that is determined to be reasonable for the claimant to possess at the time of the loss are payable:

(i) Where personal funds were accepted by responsible Government personnel with apparent authority to receive them for safekeeping deposit, transmittal, or other authorized disposition, but were neither applied as directed by the owner nor returned;

(ii) When lost incident to a marine or aircraft disaster;

(iii) When lost by fire, flood, hurricane, or other natural disaster;

(iv) When stolen from the quarters of the claimant where it is conclusively shown that the money was in a locked container and that the quarters themselves were locked;

(v) When taken by force from the claimant's person.

(6) *Clothing.* Claims may be allowed for clothing and accessories worn on the person which are damaged or lost:

(i) During the performance of official duties in an unusual or extraordinary-risk situation;

(ii) In cases involving emergency action required by natural disaster such as fire, flood, hurricane, or by enemy or other belligerent action;

(iii) In cases involving faulty equipment or defective furniture maintained by the Government and used by the claimant as required by the job situation; or

(iv) When using a motor vehicle.

(7) *Property used for benefit of the Government.* Claims may be allowed for damage to or loss of property (except motor vehicles) used for the benefit of the Government at the request of, or with the knowledge and consent of, superior authority or by reason of necessity.

(8) *Enemy action or public service.* Claims may be allowed for damage to or loss of property as a direct consequence of:

(i) Enemy action or threat thereof, or combat, guerilla, brigandage, or other belligerent activity, or unjust confiscation by a foreign power or its nationals;

(ii) Action by the claimant to quiet a civil disturbance or to alleviate a public disaster; or

(iii) Efforts by the claimant to save human life or Government property.

(9) *Marine or aircraft disaster.* Claims may be allowed for personal property damaged or lost as a result of marine or aircraft disaster or accident.

(10) *Government property.* Claims may be allowed for property owned by the United States only when the claimant is financially responsible to an agency of the Government other than the Commission.

(11) *Borrowed property.* Claims may be allowed for borrowed property that has been damaged or lost.

§ 180.105 Claims not allowed.

(a) A claim is not allowable if:

(1) The damage or loss was caused wholly or partly by the negligent or wrongful act of the claimant, claimant's agent, claimant's employee, or a member of claimant's family;

(2) The damage or loss occurred in quarters occupied by the claimant within the 50 States and the District of Columbia that were not assigned to the claimant or otherwise provided in kind by the United States;

(3) Possession of the property lost or damaged was not incident to service or not reasonable or proper under the circumstances.

(b) In addition to claims falling within the categories of § 180.105(a), the following are examples of claims which are not payable:

(1) *Claims not incident to service.* Claims which arose during the conduct of personal business are not payable.

(2) *Subrogation claims.* Claims based upon payment or other consideration to a proper claimant are not payable.

(3) *Assigned claims.* Claims based upon assignment of a claim by a proper claimant are not payable.

(4) *Conditional vendor claims.* Claims asserted by or on behalf of a conditional vendor are not payable.

(5) *Claims by improper claimants.* Claims by persons not designated in § 180.102(a) are not payable.

(6) *Small items of substantial value.* Claims are not payable for money or for small articles of substantial value, such as watches or expensive jewelry, when shipped with household goods or as unaccompanied baggage.

(7) *Articles of extraordinary value.* Claims are not payable for expensive articles of gold, silver, other precious metals, paintings, antiques other than bulky furnishings, relics, and other articles of extraordinary value when shipped with household goods by ordinary means or as unaccompanied baggage at normal released valuation. Claims for such articles are payable when their loss is incident to shipment by expedited mode in accordance with current joint travel regulations. This prohibition does not apply to articles in the personal custody of the claimant or articles properly checked, provided that reasonable protection or securtiy measures have been taken by the claimant.

(8) *Articles acquired for other persons.* Claims are not payable for articles intended directly or indirectly for persons other than the claimant or members of the claimant's immediate household. This prohibition includes articles acquired at the request of others and articles for sale.

(9) *Property used for business.* Claims are not payable for property normally used for business or profit.

(10) *Unserviceable property.* Claims are not payable for wornout or unserviceable property.

(11) *Violation of law or directive.* Claims are not payable for property acquired, possessed, or transported in violation of law, regulation, or other directive. This does not apply to limitations imposed on the weight of shipments of household goods.

(12) *Intangible property.* Claims are not payable for intangible property such as bank books, checks, promissory notes, stock certificates, bonds, bills of lading, warehouse receipts, baggage checks, insurance policies, money order, and traveler's checks.

(13) *Government property.* Claims are not payable for property owned by the United States unless the claimant is financially responsible for the property to an agency of the Government other than the Commission.

(14) *Motor vehicles.* Claims for motor vehicles, except as provided for by § 180.104(c)(3), will ordinarily not be paid. However, in exceptional cases, meritorius claims for damage to or loss of motor vehicles may be recommended to the Office of the General Counsel for consideration and appproval for payment.

(15) *Enemy property.* Claims are not payable for enemy property, including war trophies.

(16) *Losses recoverable from carrier.* Claims are not payable for losses, or any portion thereof, which have been recovered or are recoverable from a carrier, except as permitted under § 180.106.

(17) *Losses recoverable from insurer.* Claims are not payable for losses, or any portion thereof, which have been recovered or are recoverable from an insurer, except as permitted under § 180.106.

(18) *Losses recoverable from contractor.* Claims are not payable for losses, or any portion thereof, which have been recovered or are recoverable under contract, except as permitted under § 180.106.

(19) *Fees for estimates.* Claims are not normally payable for fees paid to obtain estimates of repair in conjuction with submitting a claim under this part. However, where, in the opinion of the approving authority, the claimant could not obtain an estimate without paying a fee, such a claim may be considered in an amount reasonable in relation to the value or the cost of repairs of the articles involved, provided that the evidence furnished clearly indicates that the amount of the fee paid will not be deducted from the cost of repairs if the work is accomplished by the estimator.

(20) *Items fraudulently claimed.* Claims are not payable for items fraudulently claimed. When investigation discloses that a claimant, claimant's agent, claimant's employee, or member of claimant's family has intentionally misrepresented an item claimed as to cost, condition, cost to repair, etc., the item will be disallowed in its entirety even though some actual damage has been sustained. However, if the remainder of the claim is proper it will be paid. This does not preclude appropriate disciplinary action if warranted.

§ 180.106 Claims involving carriers and insurers.

(a) Claimants must comply with the following before presenting claims involving a carrier or insurer:

(1) Whenever property is damaged or lost while being shipped pursuant to authorized travel orders, the owner must file a written claim for reimbursement with the carrier according to the terms of its bill of lading or contract before submitting a claim against the Government. The claimant may present a claim to the Government immediately after making demand on the carrier.

(2) Whenever property which is damaged or lost incident to the claimant's service is insured in whole or in part, the claimant must make a written demand against the insurer for reimbursement under the terms and conditions of the insurance coverage. Such demand should be made within the time limit provided in the policy and prior to the filing of a claim against the Government. The claimant may present a claim to the Government immediately after making demand on the insurer.

(b) If the claimant fails to make the required demand on the carrier or insurer or make reasonable efforts to collect the amount recoverable, the amount payable under the provisions of these regulations shall be reduced by the maximum amount recoverable. However, no deduction will be made if the circumstances of the claimant's service were such as to preclude timely filing of the claim with the carrier or insurer and it is determined that a demand would have been impracticable or unavailing in any event.

(c) When a claim is paid by the Commission, the claimant will assign to the United States, to the extent of any payment on the claim accepted by claimant, all rights, title, and interest in any claim against any carrier, insurer, or other party arising out of the incident on which the claim against the United States is based. On request, the claimant also will furnish such evidence as may be required to enable the United States to enforce the claim.

(d) After payment of a claim by the United States, if the claimant receives any payment from a carrier, contractor, insurer, or other third party, the claimant will pay the proceeds to the United States to the extent of the payment received by the claimant from the United States.

§ 180.107 Claims procedure.

(a) *Filing a claim.* Claims not exceeding $500 shall be filed with the appropriate bureau or regional director. Claims in excess of $500 shall be filed with the Office of the General Counsel, U.S. Civil Service Commission, 1900 E Street NW., Washington, D.C. 20415. Claims shall be in writing, using G.C. Form 33 when available, and shall contain as a minimum:

(1) Name, address, and place of employment of the claimant;

(2) Place and date of the damage or loss;

(3) A brief statement of the facts and circumstances surrounding the damage or loss;

(4) Cost, date, and place of acquisition of each piece of property damaged or lost;

(5) Two itemized repair estimates, or value estimates, whichever is applicable;

(6) Copies of police reports, if applicable;

(7) A statement from the claimant's supervisor that the loss was incident to service;

(8) A statement that the property was or was not insured;

(9) With respect to claims involving thefts or losses in quarters or other places where the property was reasonably kept, a statement as to what security precautions were taken to protect the property involved;

(10) With respect to claims involving property being used for the benefit of the Government, a statement by the claimant's supervisor that the claimant was required to provide such property or that the claimant's providing it was in the interest of the Government; and

(11) Other evidence as may be required.

(b) *Single claim.* A single claim shall be presented for all lost or damaged property resulting from the same incident. If this procedure causes a hardship, the claimant may present an initial claim with notice that it is a partial claim, an explanation of the circumstances causing the hardship, and an estimate of the balance of the claim and the date it will be submitted. Payment may be made on a partial claim if the approving authority determines that a genuine hardship exists.

(c) *Claims investigator.* When a claim is filed, the appropriate bureau or regional director, or the General Counsel, shall appoint a claims investigator to evaluate the claim and make a recommendation as to its disposition. Where the cost to repair damaged property does not exceed $100 per item and the claims investigator has inspected the damaged property, the claimant and the approving authority may agree upon a reasonable amount to be claimed for repair of an individual item in lieu of an independent estimate by a qualified repairman. In such a case, the claims investigator and the approving authority will certify that the property has been examined and that the amount claimed is a reasonable allowance for the cost of the repairs.

(d) *Loss in quarters.* Claims for property loss in quarters or other authorized places should be accompanied by a statement indicating:

(1) Geographical location;

(2) Whether the quarters were assigned or provided in kind by the Government;

(3) Whether the quarters are regularly occupied by the claimant;

(4) Name of the authority, if any, who designated the place of storage of the property if other than quarters;

(5) Measures taken to protect the property; and

(6) Whether the claimant is a local inhabitant.

(e) *Loss by theft or robbery.* Claims for property loss by theft or robbery should be accompanied by a statement indicating:

(1) Geographical location;

(2) Facts and circumstances surrounding the loss, including evidence of the crime such as breaking and entering, capture of the thief or robber, or recovery of part of the stolen goods; and

(3) Evidence that the claimant exercised due care in protecting the property prior to the loss, including information as to the degree of care normally exercised in the locale of the loss due to any unusual risks involved.

(f) *Transportation losses.* Claims for transportation losses should be accompanied by the following:

(1) Copies of orders authorizing the travel, transportation, or shipment or a certificate explaining the absence of orders and stating their substance;

(2) Statement in cases where property was turned over to a shipping officer, supply officer, or contract packer indicating:

(i) Name (or designation) and address of the shipping officer, supply officer, or contract packer;

(ii) Date the property was turned over;

(iii) Inventoried condition when the property was turned over;

(iv) When and where the property was packed and by whom;

(v) Date of shipment;

(vi) Copies of all bills of lading, inventories, and other applicable shipping documents;

(vii) Date and place of delivery to the claimant;

(viii) Date the property was unpacked by the carrier, claimant, or Government;

(ix) Statements of disinterested witnesses as to the condition of the property when received and delivered, or as to handling or storage;

(x) Whether the negligence of any Government employee acting within the scope of his employment caused the damage or loss;

(xi) Whether the last common carrier or local carrier was given a clear receipt, except for concealed damages;

(xii) Total gross, tare, and net weight of shipment;

(xiii) Insurance certificate or policy if losses are privately insured;

(xiv) Copy of the demand on carrier or insured, or both, when required, and the reply, if any;

(xv) Action taken by the claimant to locate missing baggage or household effects, including related correspondence.

(g) *Marine or aircraft disaster.* Claims for property losses due to marine or aircraft disaster should be accompanied by a copy of orders or other evidence to establish the claimant's right to be, or to have property, on board.

(h) *Enemy action, public disaster, or public service.* Claims for property losses due to enemy action, public disaster, or public service should be accompanied by:

(1) Copies of orders or other evidence establishing the claimant's required presence in the area involved, and

(2) A detailed statement of facts and circumstances showing an applicable case enumerated in § 180.104(c)(8).

(i) *Property used for benefit of Government.* Claims for property loss when the property was used for the benefit of the Government should be accompanied by:

(1) A statement from the proper authority that the property was supplied by the claimant in the performance of official business at the request of, or with the knowledge and consent of, superior authority or by reason of necessity; and

(2) If the property being used for the benefit of the Government was damaged or lost while not in use, evidence that the loss occurred in an authorized storage area.

(j) *Money.* Claims for loss of money deposited for safekeeping, transmittal, or other authorized disposition, should be accompanied by:

(1) Name, grade, and address of the person or persons who received the money and any others involved;

(2) Name and designation of the authority who authorized such person or persons to accept personal funds, and the disposition required; and

(3) Receipts and written sworn statements explaining the failure to account for funds or return them to the claimant.

(k) *Motor vehicles in transit.* Claims for damage to motor vehicles in transit should be accompanied by a copy of orders or other available evidence to establish the claimant's lawful right to have the property shipped and evidence to establish damage in transit.

§ 180.108 Settlement of Claims.

(a) *Authority.* Bureau Directors and Regional Directors are authorized to settle and pay any claim not exceeding $500 and arising under this part. The General Counsel is authorized to settle and pay any claim not exceeding $15,000 and arising under this part. Unless cognizable under § 180.104 (c)(3), claims for damage to or loss of motor vehicles may be settled and paid only by the General Counsel.

(b) *Redelegation.* The approving authorities may establish such procedures and make such redelegations as may be required to fulfill the objectives of this part.

(c) *Cost or value.* The amount awarded on any item of property will not exceed the cost of the item (either the price paid in cash or property) or the value at the time of acquisition if not acquired by purchase or exchange. The amount payable will be determined by applying the principles of depreciation to the adjusted dollar value or other base price of property lost or damaged beyond economical repair; by allowing the cost of repairs when an item is economically repairable, provided the cost of repairs does not exceed the depreciated value of the item; and by deducting salvage value, if appropriate.

(d) *Depreciation.* Depreciation in value of an item is determined by considering the type of article involved, its cost, condition when damaged beyond economical repair or lost, and the time elapsed between the date of acquisition and the date of damage or loss.

(e) *Appreciation.* There will be no allowance for appreciation in the value of the property except that the cost of the item may be adjusted to reflect changes in the purchasing power of the dollar before depreciation is computed. Appreciation will not be allowed solely because the loss occurred or the claimant now resides in an area remote from the place of purchase of the property.

(f) *Expensive articles.* Allowance for expensive items (including heirlooms and antiques) or for items purchased at unreasonably high prices will be based on the fair and reasonable purchase price for substitute articles of a similar nature.

(g) *Acquisition.* Allowance for articles acquired by barter will not exceed the cost of the articles tendered in barter. No reimbursement will be made for articles acquired in black market or other prohibited activities.

(h) *Replacement.* Replacement of damaged or lost property may be made in kind whenever appropriate.

(i) *Amount allowable.* Subject to the limitations of §§ 180.108(c) through 180.108(h), the amount allowable in settlement of a claim is either:

(1) The depreciated value immediately prior to damage or loss of property damaged beyond economical repair or lost, less any salvage value; or

(2) The reasonable cost of repairs when property is economically repairable, provided that the cost of repairs does not exceed the depreciated value.

(j) *Notification.* The approving authority shall notify the claimant in writing of the action taken on the claim and, if the claim is disapproved or only partially approved, the reasons therefor.

(k) *Carrier or insurer.* In the event a claim submitted against a carrier or insurer under § 180.106 had not been settled before settlement of a claim against the Government under this part, the approving authority shall notify such carrier or insurer to pay the proceeds of the claim to the Commission to the extent the Commission has made payment to the claimant.

(l) *Review.* The action of the approving authority is final; however, the decision may be reconsidered if the claimant so requests and submits a written explanation why reconsideration is appropriate.

(m) *Attorney's fees.* No more than 10 per centum of the amount paid in settlement of each individual claim submitted and settled under this subpart shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with that claim and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating this or any other provision of sections 240 to 243 of title 31, United States Code, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1000.

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

[FR Doc. 78-28616 Filed 10-12-78; 8:45 am]

[6325-01-M]

PART 213—EXCEPTED SERVICE

Department of Labor

AGENCY: Civil Service Commission.

ACTION: Final Rule.

SUMMARY: Schedule A 213.3115(d) is amended to change the headnote from Manpower Administration to Employment and Training Administration; change the name of the division of Indian Manpower Programs to Division of Indian and Native American Programs; change the title of the position of manpower development officer to supervisory manpower development specialist; show grade level coverage; and delete the word "manpower" from the last sentence of the authority. These changes are made to keep the authority current. This amendment also revokes Schedule B 213.3215(c) for 35 manpower development specialist positions in the Manpower Administration because the authority is no longer used.

EFFECTIVE DATE: September 27, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Sherwin, 202-632-4533

Accordingly, the headnote of 5 CFR 213.3115(d) and (d)(1) are amended and 5 CFR 213.3215 is revoked as follows:

§ 213.3115 Department of Labor.

* * * * *

(d) *Employment and Training Administration.* (1) Not to exceed 10 positions of supervisory manpower development specialist and manpower development specialist, GS-7/15, in the Division of Indian and Native American Programs, when filled by the appointment of persons of one-fourth or more Indian blood. These positions require direct contact with Indian tribes and communities for the development and administration of comprehensive employment and training programs.

* * * * *

§ 213.3215 [Revoked]

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

UNITED STATES CIVIL SERVICE COMMISSION,
James C. Spry,
Executive Assistant to the Commissioners.

[FR Doc. 78-28617 Filed 10-12-78; 8:45 am]

[6325-01-M]

PART 213—EXCEPTED SERVICE

Temporary Boards and Commissions

AGENCY: Civil Service Commission.

ACTION: Final Rule.

SUMMARY: This amendment revokes the Schedule A authorities for the President's Commission on Mental Health, the American Revolution Bicentennial Administration, and the President's Commission on Military Compensation because these organizations no longer exist.

EFFECTIVE DATE: September 26, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Sherwin, 202-632-4533

Accordingly, 5 CFR 213.3199 (j), (k), and (v) are revoked, as follows:

§ 213.3199 Temporary Boards and Commissions.

* * * * *

(j) [Revoked]
(k) [Revoked]

* * * * *

(v) [Revoked]

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

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

[FR Doc. 78-28618 Filed 10-12-78; 8:45 am]

[6325-01-M]

PART 213—EXCEPTED SERVICE

Entire Executive Civil Service

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The schedule A authority for employment of students who need the income to stay in school is amended: (1) To permit employment of mentally retarded and severely physically handicapped students because it is impracticable to examine for such appointments; (2) to eliminate the age restriction of 22 to comply with the Age Discrimination in Employment Act; and (3) to permit all students employed under this authority to work full-time during any period (regardless of length) when their school is officially closed because such employment will not interfere with their education.

EFFECTIVE DATE: October 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael D. Sherwin, 202-632-4533.

Accordingly, 5 CFR 213.3102(w) is amended as set out below:

§ 213.3102 Entire Executive Civil Service.

* * * * *

(w) Part-time or intermittent positions the duties of which involve work of a routine nature when filled by students appointed in furtherance of the President's Youth Opportunity Stay-in-School Campaign or when filled by mentally retarded or severly physically handicapped students, provided that the following conditions are met: (1) Appointees are enrolled in or accepted in a resident secondary school (or other appropriate school for mentally retarded students) or an institution of higher learning accredited by a recognized accrediting body; (2) employment does not exceed 16 hours in

any calendar week, except that students may work full-time during any period in which their school is officially closed; (3) while employed, appointees continue to maintain an acceptable school standing, although they need not attend school during the summer; (4) appointees need the earnings from the employment to continue in school, except that this requirement does not apply to mentally retarded or severely physically handicapped students appointed under the authority; and (5) salaries are fixed by the agency head at a level commensurate with the duties assigned and the expected level of performance. Appointments under this authority may not extend beyond 1 year: *Provided*, that such appointments may be made for additional periods of not to exceed 1 year each if the conditions for initial appointments are still met. Persons may not be appointed under this authority unless they have reached their 16th birthday. Appointments may not be made under this authority between May 1 and August 31, inclusive.

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

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

[FR Doc. 78-29049 Filed 10-12-78; 8:45 am]

[6325-01-M]

PART 213—EXCEPTED SERVICE

Department of Health, Education, and Welfare

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: Four positions of project officer at grades GS-14 and 15 associated with the Social Security Administration's future process project are excepted under schedule A because it is impracticable to examine for them. No one may serve under this authority after December 31, 1985, when the project will be completed.

EFFECTIVE DATE: October 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Sherwin, 202-632-4533.

Accordingly, 5 CFR 213.3116(d)(6) is added as set out below:

§ 213.3116 Department of Health, Education, and Welfare.

* * * * *

(d) *Social Security Administration.*

* * *

(6) Four project officers at grades GS-14 and 15 associated with the future process project. No one may serve under this authority after December 31, 1985.

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

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

[FR Doc. 78-29050 Filed 10-12-78; 8:45 am]

[6325-01-M]

PART 213—EXCEPTED SERVICE

Smithsonian Institution

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The service limit for veterinary interns with the National Zoological Park is extended from 15 to 24 months to allow enough time for interns to acquire the full knowledge and skills in exotic animal medicine needed by American zoos. Schedule B exception is still appropriate for the positions because it is still impracticable to hold a competitive examination for them.

EFFECTIVE DATE: October 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Sherwin, 202-632-4533.

Accordingly, 5 CFR 213.3274(a)(1) is amended as set out below:

§ 213.3274 Smithsonian Institution.

(a) *National Zoological Park.*

(1) Four positions of veterinary intern, GS-8/9. Employment under this authority is not to exceed 24 months.

* * * * *

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

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

[FR Doc. 78-29051 Filed 10-12-78; 8:45 am]

[3410-34-M]

Title 9—Animals and Animal Products

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

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

PART 78—BRUCELLOSIS

Subpart D—Designation of Brucellosis Areas, Specifically Approved Stockyards, and Slaughtering Establishments

BRUCELLOSIS AREAS

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final Rule.

SUMMARY: The Animal and Plant Health Inspection Service is amending its Brucellosis Regulations. These amendments update the Brucellosis regulations by providing the current status of various counties and States which have been designated Certified Brucellosis-Free Areas, Modified Certified Brucellosis Areas, or Noncertified Areas for purposes of interstate movement of cattle and bison from such areas. This action is required because of the change in the Brucellosis status of the areas affected.

EFFECTIVE DATE: October 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Dr. A. D. Robb, U.S. Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services, Hyattsville, Md, room 805, 301-436-8713.

SUPPLEMENTARY INFORMATION: The amendments delete the following areas from the list of Certified Brucellosis-Free Areas in § 78.20 and add such areas to the list designated as Modified Certified Brucellosis Areas in § 78.21 because it has been determined that they now come within the definition of a Modified Certified Brucellosis Area in § 78.1(m): Jefferson, Jo Daviess, Knox Counties in Illinois; Garfield County in Utah.

The amendments delete the following areas from the list of Modified Certified Brucellosis Areas § 78.21 and add such areas to the list designated as Certified Brucellosis-Free Areas in §78.20 because it has been determined that they now come within the definition of Certified Brucellosis-Free Area in § 78.1(l): Mills County in Iowa.

Accordingly, §§ 78.20, 78.21, and 78.22 of Part 78, Title 9, Code of Federal Regulations, designating Certified Brucellosis-Free Areas, Modified Certified Brucellosis Areas, and Noncerti-

fied Areas, respectively, are amended to read as follows:

§ 78.20 Certified Brucellosis-Free Areas.

The following States, or specified portions thereof, are hereby designated as Certified Brucellosis-Free Areas:

(a) *Entire States.*

Arizona, California, Connecticut, Delaware, Hawaii, Indiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nevada, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Virginia, Washington, West Virginia, Wisconsin, Virgin Islands.

(b) *Specific Counties Within States.*

Alabama. Dale, Geneva.

Arkansas. Baxter, Bradley, Carroll, Cleveland, Columbia, Dallas, Drew, Fulton, Garland, Jefferson, Marion, Monroe, Montgomery, Newton, Ouachita, Searcy, Sharp, Stone, Union.

Colorado. Adams, Alamosa, Arapahoe, Archuleta, Baca, Bent, Boulder, Chaffee, Cheyenne, Clear Creek, Conejos, Costilla, Crowley, Custer, Delta, Denver, Dolores, Douglas, Eagle, Elbert, El Paso, Fremont, Garfield, Gilpin, Grand, Gunnison, Hinsdale, Huerfano, Jackson, Jefferson, Kiowa, Kit Carson, Lake, La Plata, Larimer, Las Animas, Lincoln, Logan, Mineral, Moffat, Montezuma, Montrose, Morgan, Otero, Ouray, Park, Phillips, Pitkin, Prowers, Pueblo, Rio Blanco, Rio Grande, Routt, Saguache, San Juan, San Miguel, Sedgwick, Summit, Teller, Washingon, Weld, Yuma.

Florida. Baker, Bay, Citrus, Dixie, Escambia, Franklin, Holmes, Jackson, Leon, Liberty, Monroe, Okaloosa, Orange, Santa Rosa, Seminole, St. Johns, Taylor, Wakulla, Walton, Washington.

Georgia. Appling, Atkinson, Bacon, Banks, Brantley, Bryan, Bulloch, Burke, Butts, Camden, Candler, Charlton, Chatham, Chattahoochee, Clarke, Clayton, Cook, Crawford, De Kalb, Echols, Effingham, Evans, Fannin, Franklin, Glascock, Glynn, Greene, Habersham, Jeff Davis, Johnson, Lanier, Laurens, Liberty, Long, McIntosh, Monroe, Peach, Rabun, Richmond, Screven, Stephens, Taylor, Toombs, Treutlen, Twiggs, Upson, Ware, Wayne, Wheeler, White, Wilkinson.

Idaho. Ada, Adams, Bear Lake, Benewah, Bingham, Blaine, Boise, Bonner, Boundary, Butte, Camas, Canyon, Caribou, Clark, Clearwater, Custer, Gem, Idaho, Kootenai, Latah, Lemhi, Lewis, Minidoka, Nez Perce, Owyhee, Payette, Power, Shoshone, Valley, Washington.

Illinois. Adams, Alexander, Bond, Boone, Brown, Bureau, Calhoun, Carroll, Cass, Champaign, Christian, Clark, Clay, Clinton, Coles, Cook, Crawford, Cumberland, De Kalb, De Witt, Douglas, Du Page, Edgar, Edwards, Effingham, Fayette, Ford, Franklin, Fulton, Gallatin, Greene, Grundy, Hamilton, Hancock, Hardin, Henderson, Henry, Iroquois, Jackson, Jasper, Jersey, Johnson, Kane, Kankakee, Kendall, Lake, La Salle, Lawrence, Lee, Livingston, Logan, Macon, Macoupin, Madison, Marion, Marshall, Mason, McDonough, McHenry, McLean, Menard, Mercer, Monroe, Montgomery, Morgan, Moultrie, Ogle, Peoria, Perry, Piatt, Pike, Pope, Pulaski, Putnam, Randolph, Richland, Rock Island, St. Clair, Saline, Sangamon, Schuyler, Scott, Shelby, Stark, Stephenson, Tazewell, Union, Vermilion, Wabash, Warren, Washington, Wayne, White, Whiteside, Will, Williamson, Winnebago, Woodford.

Iowa. Adair, Allamakee, Audubon, Benton, Black Hawk, Boone, Bremer, Buchanan, Buena Vista, Butler, Calhoun, Carroll, Cass, Cedar, Cerro Gordo, Cherokee, Chickasaw, Clarke, Clay, Clayton, Clinton, Crawford, Dallas, Davis, Decatur, Delaware, Des Moines, Dickinson, Dubuque, Emmet, Fayette, Floyd, Franklin, Fremont, Greene, Grundy, Hamilton, Hancock, Hardin, Harrison, Henry, Howard, Humboldt, Ida, Iowa, Jackson, Jasper, Jefferson, Johnson, Jones, Keokuk, Kossuth, Lee, Linn, Louisa, Lucas, Lyon, Madison, Mahaska, Marion, Marshall, Mills, Mitchell, Monona, Monroe, Montgomery, Muscatine, O'Brien, Osceola, Palo Alto, Pocahontas, Polk, Pottawattamie, Poweshiek, Plymouth, Sac, Scott, Shelby, Sioux, Story, Tama, Union, Van Buren, Wapello, Warren, Washington, Webster, Winnebago, Winneshiek, Woodbury, Worth, Wright.

Kansas. Anderson, Barber, Bourbon, Brown, Chase, Chautauqua, Cherokee, Cheyenne, Clark, Clay, Coffey, Comanche, Decatur, Doniphan, Douglas, Edwards, Ellsworth, Finney, Ford, Gove, Graham, Grant, Gray, Greeley, Hamilton, Haskell, Hodgeman, Jewell, Johnson, Kearny, Kingman, Kiowa, Labette, Lane, Logan, Marion, Marshall, Meade, Mitchell, Ness, Norton, Pawnee, Phillips, Pottawatomie, Pratt, Rawlins, Republic, Riley, Rooks, Rush, Saline, Scott, Shawnee, Sheridan, Sherman, Smith, Stanton, Stevens, Thomas, Trego, Wallace, Washington, Wichita, Wyandotte.

Kentucky. Bell, Breathitt, Campbell, Clay, Floyd, Harlan, Johnson, Kenton, Knott, Knox, Lawrence, Lee, Leslie, Letcher, Lewis, Magoffin, Martin, McCreary, Menifee, Morgan, Owsley, Pendleton, Perry, Pike, Robertson, Trimble, Whitley, Wolfe.

Mississippi. Alcorn, Hancock, Harrison, Jackson, Stone, Tishomingo.

Missouri. Audrain, Dunklin, Gasconade, Hickory, Lewis, Moniteau, Montgomery, Perry, Platte, Pulaski, St. Louis, Schuyler, Shelby.

Nebraska. Banner, Box Butte, Cheyenne, Dakota, Deuel, Dodge, Douglas, Perkins, Thurston.

New Mexico. Catron, Colfax, De Baca, Dona Ana, Grant, Guadalupe, Harding, Hidalgo, Lincoln, Los Alamos, Luna, McKinley, Otero, Rio Arriba, Sandoval, San Juan, Santa Fe, Sierra, Socorro, Taos, Torrance, Union.

South Dakota. Aurora, Beadle, Bennett, Bon Homme, Brookings, Brown, Brule, Buffalo, Butte, Campbell, Charles Mix, Clark, Clay, Codington, Corson, Custer, Davision, Day, Deuel, Dewey, Douglas, Edmunds, Fall River, Faulk, Grant, Gregory, Haakon, Hamlin, Hand, Hanson, Harding, Hughes, Hutchinson, Hyde, Jackson, Jerauld, Kingsbury, Lake, Lawrence, Lincoln, Lyman, Marshall, McCook, McPherson, Meade, Mellette, Miner, Minnehaha, Moody, Pennington, Perkins, Potter, Roberts, Sanborn, Shannon, Spink, Sully, Todd, Tripp, Turner, Union, Walworth, Washabaugh, Yankton, Ziebach.

Tennessee. Anderson, Blount, Campbell, Carter, Clairborne, Davidson, Fentress, Grainger, Greene, Hamblen, Hancock, Jefferson, Johnson, Knox, Lake, Lewis, Meigs, Morgan, Perry, Polk, Roane, Robertson, Scott, Sequatchie, Sevier, Sullivan, Unicoi, Union, Van Buren.

Texas. Armstrong, Bandera, Borden, Brewster, Childress, Comal, Crane, Culberson, Ector, Gillespie, Glassock, Gray, Hansford, Hartley, Hemphill, Hudspeth, Hutchinson, Irion, Jeff Davis, Kendall, Kerr, Kimble, Lipscomb, Llano, Loving, Martin, Mason, Menard, Midland, Moore, Newton, Ochiltree, Pecos, Presidio, Reagan, Real, Roberts, Schleicher, Sherman, Sterling, Sutton, Terrell, Val Verde, Ward, Winkler, Yoakum.

Utah. Beaver, Cache, Carbon, Daggett, Davis, Duchesne, Emery, Grand, Iron, Juab, Kane, Millard, Morgan, Piute, Rich, Salt Lake, San Juan, Sanpete, Sevier, Summit, Tooele, Uintah, Utah, Wasatch, Washington, Wayne, Weber.

Vermont. Bennington, Caledonia, Essex, Grand Isle, Lamoille, Orange, Rutland, Washington, Windham, Windsor.

Wyoming. Albany, Big Horn, Campbell, Carbon, Converse, Crook, Fremont, Goshen, Hot Springs, Johnson, Laramie, Natrona, Niobrara, Park, Platte, Sheridan, Sublette, Sweetwater, Teton, Uinta, Washakie, Weston.

Puerto Rico. Adjuntas, Aguada, Aguadilla, Aguas Buenas, Aibonito, Anasco, Arroyo, Barceloneta, Barranquitas, Bayamon, Cabo Rojo, Caguas, Canovanas (Loiza), Catano, Cayey, Ceiba, Ciales, Cidra, Coamo, Comerio, Corozal, Culebra, Dorado, Fajardo, Guanica, Guayama, Guaynabo, Guayanilla, Hormigueros, Humacao, Jayuya, Juana Diaz, Juncos, Lares, Las Marias, Luquillo, Manati, Maricao, Maunabo, Mayaguez, Moca, Morovis, Naranjito, Orocovis, Patillas, Penuelas, Ponce, Rincon, Rio Grande, Rio Piedras, Sabana Grande, Salinas, San German, San Juan, San Lorenzo, Santa Isabel, Toa Alta, Toa Baja, Trujillo Alto, Utuado, Vega Alta, Vega Baja, Vieques, Villalba, Yabucoa, Yauco.

§ 78.21 Modified Certified Brucellosis Areas.

The following States, or specified portions thereof, are hereby designated as Modified Certified Brucellosis Areas:

(a) *Entire States.*

Alaska, Louisiana, Oklahoma.

(b) *Specific Counties Within States.*

Alabama. Autauga, Baldwin, Barbour, Bibb, Blount, Bullock, Butler, Calhoun, Chambers, Cherokee, Chilton, Choctaw, Clarke, Clay, Cleburne, Coffee, Colbert, Conecuh, Coosa, Covington, Crenshaw, Cullman, Dallas, De Kalb, Elmore, Etowah, Escambia, Fayette, Franklin, Greene, Hale, Henry, Houston, Jackson, Jefferson, Lamar, Lauderdale, Lawrence, Lee, Limestone, Lowndes, Macon, Madison, Marengo, Marion, Marshall, Mobile, Monroe, Montgomery, Morgan, Perry, Pickens, Pike, Randolph, Russell St. Clair, Shelby, Sumter, Talladege, Tallapoosa, Tuscaloosa, Walker, Washington, Wilcox, Winston.

Arkansas. Arkansas, Ashley, Benton, Boone, Calhoun, Chicot, Clark, Clay, Cleburne, Conway, Craighead, Crawford, Crittenden, Cross, Desha, Faulkner, Franklin, Grant, Greene, Hempstead, Hot Spring, Howard, Independence, Izard, Jackson, Johnson, Lafayette, Lawrence, Lee, Lincoln, Little River, Logan, Lonoke, Madison, Miller, Mississippi, Nevada, Perry, Phillips, Pike, Poinsett, Polk, Pope, Prairie, Pulaski, Randolph, Saline, Scott, St. Francis, Sebastian, Sevier, Van Buren, Washington, White, Woodruff, Yell.

Florida. Alachua, Bradford, Brevard, Broward, Calhoun, Charlotte, Clay, Collier, Columbia, Dade, De Soto, Duval, Flagler, Gadsden, Gilchrist, Glades, Gulf, Hamilton, Hardee, Hendry, Hernando, Highlands, Hillsborough, Indian River, Jefferson, Lafayette, Lake, Lee, Levy, Madison, Manatee, Marion, Martin, Nassau, Osceola, Palm Beach, Pasco, Pinellas, Polk, Putnam, St. Lucie, Sarasota, Sumter, Suwanee, Union, Volusia.

Georgia. Baker, Baldwin, Barrow, Bartow, Ben Hill, Berrien, Bibb, Bleckley, Brooks, Calhoun, Carroll, Catoosa, Chattooga, Cherokee, Clay, Clinch, Cobb, Coffee, Colquitt, Columbia, Coweta, Crisp, Dade, Dawson, Decatur, Dodge, Dooly, Dougherty, Douglas, Early, Elbert, Emanuel, Fayette, Floyd, Forsyth, Fulton, Gilmer, Gordon, Grady, Gwinnett, Hall, Hancock, Haralson, Harris, Hart, Heard, Henry, Houston, Irwin, Jackson, Jasper, Jefferson, Jenkins, Jones, Lamar, Lee, Lincoln, Lowndes, Lumpkin, Macon, Madison, Marion, McDuffie, Meriwether, Miller, Mitchell, Montgomery, Morgan, Murray, Muscogee, Newton, Oconee, Oglethorpe, Paulding, Pickens, Pierce, Pike, Polk, Pulaski, Putnam, Quitman, Randolph, Rockdale, Schley, Seminole, Spalding, Stewart, Sumter, Talbot, Taliaferro, Tattnall, Telfair, Terrell, Thomas, Tift, Towns, Troup, Turner, Union, Walker, Walton, Warren, Washington, Webster, Whitfield, Wilcox, Wilkes, Worth.

Idaho. Bannock, Bonneville, Cassia, Elmore, Franklin, Fremont, Gooding, Jefferson, Jerome, Lincoln, Madison, Oneida, Teton, Twin Falls.

Illinois. Jefferson, Jo Daviess, Knox, Massac.

Iowa. Adams, Appanoose, Guthrie, Page, Ringgold, Taylor, Wayne.

Kansas. Allen, Atchison, Barton, Butler, Cloud, Cowley, Crawford, Dickinson, Elk, Ellis, Franklin, Geary, Greenwood, Harper, Harvey, Jackson, Jefferson, Leavenworth, Lincoln, Linn, Lyon, McPherson, Miami, Montgomery, Morris, Morton, Nemaha, Neosho, Osage, Osborne, Ottawa, Reno, Rice, Russell, Sedgwick, Seward, Stafford, Sumner, Wabaunsee, Wilson, Woodson.

Kentucky. Adair, Allen, Anderson, Ballard, Barren, Bath, Boone, Bourbon, Boyd, Boyle, Bracken, Breckinridge, Bullitt, Butler, Caldwell, Calloway, Carlisle, Carroll, Carter, Casey, Christian, Clark, Clinton, Crittenden, Cumberland, Daviess, Edmonson, Elliott, Estill, Fayette, Fleming, Franklin, Fulton, Gallatin, Garrard, Grant, Graves, Grayson, Green Greenup, Hancock, Hardin, Harrison, Hart, Henderson, Henry, Hickman, Hopkins, Jackson, Jefferson, Jessamine, Larue, Laurel, Lincoln, Livingston, Logan, Lyon, Madison, Marion, Marshall, Mason, McCracken, McLean, Meade, Mercer, Metcalfe, Monroe, Montgomery, Muhlenberg, Nelson, Nicholas, Ohio, Oldham, Owen, Powell, Pulaski, Rockcastle, Rowan, Russell, Scott, Shelby, Simpson, Spencer, Taylor, Todd, Trigg, Union, Warren, Washington, Wayne, Webster, Woodford.

Mississippi. Adams, Amite, Attala, Benton, Bolivar, Calhoun, Carroll, Chickasaw, Choctaw, Claiborne, Clarke, Clay, Coahoma, Copiah, Covington, De Soto, Forrest, Franklin, George, Greene, Grenada, Hinds, Holmes, Humphreys, Issaquena, Itawamba, Jasper, Jefferson, Jefferson Davis, Jones, Kemper, Lafayette, Lamar, Lauderdale, Lawrence, Leake, Lee, LeFlore, Lincoln, Lowndes, Madison, Marion, Marshall, Monroe, Montgomery, Neshoba, Newton, Noxubee, Oktibbeha, Panola, Pearl River, Perry, Pike, Pontotoc, Prentiss, Quitman, Rankin, Scott, Sharkey, Simpson, Smith, Sunflower, Tallahatchie, Tate, Tippah, Tunica, Union, Walthall, Warren, Washington, Wayne, Webster, Wilkinson, Winston, Yalobusha, Yazoo.

Missouri. Adair, Andrew, Atchison, Barry, Barton, Bates, Benton, Bollinger, Boone, Buchanan, Butler, Caldwell, Callaway, Camden, Cape Girardeau, Carroll, Carter, Cass, Cedar, Chariton, Christian, Clark, Clay, Clinton, Cole, Cooper, Crawford, Dade, Dallas, Daviess, De Kalb, Dent, Douglas, Franklin, Gentry, Greene, Grundy, Harrison, Henry, Holt, Howard, Howell, Iron, Jackson, Jasper, Jefferson, Johnson, Knox, Laclede, Lafayette, Lawrence, Lincoln, Linn, Livingston, Macon, Madison, Maries, Marion, McDonald, Mercer, Miller, Mississippi, Monroe, Morgan, New Madrid, Newton, Nodaway, Oregon, Osage, Ozark, Pemiscot, Pettis, Phelps, Pike, Polk, Putnam, Ralls, Randolph, Ray, Reynolds, Ripley, St. Charles, St. Clair, St. Francois, St. Genevieve, Saline, Scotland, Scott, Shannon, Stoddard, Stone, Sullivan, Taney, Texas, Vernon, Warren, Washington, Wayne, Webster, Worth, Wright.

Nebraska. Adams, Antelope, Arthur, Blaine, Boone, Boyd, Brown, Buffalo, Burt, Butler, Cass, Cedar, Chase, Cherry, Clay, Colfax, Cuming, Custer, Dawes, Dawson, Dixon, Dundy, Fillmore, Franklin, Frontier, Furnas, Gage, Garden, Garfield, Gosper, Grant, Greeley, Hall, Hamilton, Harlan, Hayes, Hitchcock, Holt, Hooker, Howard, Jefferson, Johnson, Kearney, Keith, Keya Paha, Kimball, Knox, Lancaster, Lincoln, Logan, Loup, Madison, McPherson, Merrick, Morrill, Nance, Nemaha, Nuckolls, Otoe, Pawnee, Phelps, Pierce, Platte, Polk Redwillow, Richardson, Rock, Saline, Sarpy, Saunders, Scotts Bluff, Seward, Sheridan, Sherman, Sioux, Stanton, Thayer, Thomas, Valley, Washington, Wayne, Webster, Wheeler, York.

New Mexico. Bernalillo, Chaves, Curry, Eddy, Lea, Mora, Quay, Roosevelt, San Miguel, Valencia.

South Dakota. Jones, Stanley.

Tennessee. Bedford, Benton, Bledsoe, Bradley, Cannon, Carroll, Cheatham, Chester, Clay, Cocke, Coffee, Crockett, Cumberland, Decatur, DeKalb, Dickson, Dyer, Fayette, Franklin, Gibson, Giles, Grundy, Hamilton, Hardeman, Hardin, Hawkins, Haywood, Henderson, Henry, Hickman, Houston, Humphreys, Jackson, Lauderdale, Lawrence, Lincoln, Loudon, Macon, Madison, Marion, Marshall, Maury, McMinn, McNairy, Monroe, Montgomery, Moore, Obion, Overton, Pickett, Putnam, Rhea, Rutherford, Shelby, Smith, Stewart, Sumner, Tipton, Trousdale, Warren, Washington, Wayne, Weakley, White, Williamson, Wilson.

Texas. Anderson, Andrews, Angelina, Aransas, Archer, Atascosa, Austin, Bailey, Bastrop, Baylor, Bee, Bell, Bexar, Blanco, Bosque, Bowie, Brazoria, Brazos, Briscoe, Brooks, Brown, Burleson, Burnet, Caldwell, Calhoun, Callahan, Cameron, Camp, Carson, Cass, Castro, Chambers, Cherokee, Clay, Cochran, Coke, Coleman, Collin, Collingsworth, Colorado, Comanche, Concho, Cooke, Coryell, Cottle, Crockett, Crosby, Dallam, Dallas, Dawson, Deaf Smith, Delta, Denton, De Witt, Dickens, Dimmitt, Donley, Duval, Eastland, Edwards, Ellis, El Paso, Erath, Falls, Fannin, Fayette, Fisher, Floyd, Foard, Fort Bend, Franklin, Freestone, Frio, Gaines, Galveston, Garza, Goliad, Gonzales, Grayson, Gregg, Grimes, Guadalupe, Hale, Hall, Hamilton, Hardeman, Hardin, Harris, Harrison, Haskell, Hays, Henderson, Hidalgo, Hill, Hockley, Hood, Hopkins, Houston, Howard, Hunt, Jack, Jackson, Jasper, Jefferson, Jim Hogg, Jim Wells, Johnson, Jones, Karnes, Kaufman, Kenedy, Kent, King, Kinney, Kleberg, Knox, Lamar, Lamb, Lampasas, La Salle, Lavaca, Lee, Leon, Liberty, Limestone, Live Oak, Lubbock, Lynn, McCulloch, McLennan, McMullen, Madison, Marion, Matagorda, Maverick, Medina, Milam, Mills, Mitchell, Montague, Montgomery, Morris, Motley, Nacogdoches, Navarro, Nolan, Nueces, Oldham, Orange, Palo Pinto, Panola, Parker, Parmer, Polk, Potter, Rains, Randall, Red River, Reeves, Refugio, Robertson, Rockwall, Runnels, Rusk, Sabine, San Augustine, San Jacinto, San Patricio, San Saba, Scurry, Shackelford, Shelby, Smith, Somervell, Starr, Stephens, Stonewall, Swisher, Tarrant, Taylor, Terry, Throckmorton, Titus, Tom Green, Travis, Trinity, Tyler, Upshur, Upton, Uvalde, Van Zandt, Victoria, Walker, Waller, Washington, Webb, Wharton, Wheeler, Wichita, Wilbarger, Willacy, Williamson, Wilson, Wise, Wood, Young, Zapata, Zavala.

Utah. Box Elder, Garfield.

Vermont. Addison, Chittenden, Franklin, Orleans.

Wyoming. Lincoln.

Puerto Rico. Arecibo, Camuy, Carolina, Gurabo, Hatillo, Isabela, Las Piedras, Naguabo, Quebradillas, San Sebastian.

§ 78.22 **Noncertified Areas.**

The following States, or specified portions thereof, are hereby designated as Noncertified Brucellosis Areas:

(a) *Entire States.*

Yellowstone National Park.

(b) *Specific Counties Within States.*

Florida. Okeechobee.

(Secs. 4-7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791-792, as amended; sec. 3, 33 Stat. 1265, as amended; sec. 2, 65 Stat. 693; and secs. 3 and 11, 76 Stat. 130, 132, (21 U.S.C. 111-113, 114a-1, 115, 117, 120, 121, 125, 134b, 134f; 37 FR 28464, 28477; 38 FR 19141, 9 CFR 78.25))

The amendments impose certain restrictions necessary to prevent the spread of brucellosis in cattle and relieve certain restrictions presently imposed. They should be made effective promptly in order to accomplish their purpose in the public interest and to be of maximum benefit to persons subject to the restrictions which are relieved. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable, unnecessary, and contrary to the public interest, and good cause is found for making them effective less

than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 5th day of October.

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

NORVAN L. MEYER,
Acting Deputy Administrator
Veterinary Services.

[FR Doc. 78-28619 Filed 10-12-78; 8:45 am]

[3510-25-M]

Title 15—Commerce and Foreign Trade

CHAPTER III—INDUSTRY AND TRADE ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 372—INDIVIDUAL VALIDATED LICENSES AND AMENDMENTS

Clarification of Requirement that an Export License Application Must Be Based on an Order

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

ACTION: Final rule.

SUMMARY: This revision restates the general requirement that an export license application must be based on an export order. It highlights the fact that the order need not be in the form of an agreement that can presently be executed or that would become a binding contract upon acceptance. It notes that an order need not be an unconditional offer to buy, but it must be more than a mere business inquiry relating to a possible export. It is issued to clarify and simplify the regulations and does not change the regulations in any substantive manner.

EFFECTIVE DATE: October 13, 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, § 372.6 of the Export Administration regulations (15 CFR 372.6) is revised to read as follows:

§ 372.6 Substantiation of facts on application.

(a) *Orders and other material facts.*—(1) *Order.* An application for an export license must be based on an order. An "order" means a communication from a person in a foreign country or his representative expressing an intent to import commodities or technical data from the applicant or order party, as defined in § 372.6(b) below. While an order must, in any case, be more than a mere business inquiry relating to a possible export, it need not be an agreement that can presently be executed or that would become a binding contract upon acceptance. Furthermore, an order need not be an unconditional offer to buy. An order, for instance, may be contingent upon certain variable conditions such as market price, time of delivery, availability of the commodities in kinds and quantities desired, and other undetermined factors. Such a contingent offer still constitutes an order within the meaning of these provisions. Similarly, a continuing or "open" order that remains at all times flexible in some respects may be acceptable. If, however, all of the terms of the order are not finally determined before an application is submitted, all negotiations toward the settlement of the terms must have been advanced sufficiently to establish the intent of the person placing the order to consummate the proposed transaction. (The Office of Export Administration may grant a waiver of this order requirement under certain circumstances. See § 372.6(c)(1)).

(2) *Documentary evidence.* Before filing an application for an export license, the applicant should have in his possession documentary evidence of the order and of the following facts relating to the purchase transaction that appear on the license application:

(i) Country of ultimate destination;

(ii) Names and addresses of the ultimate consignee, intermediate consignee (if any), purchaser (if other then ultimate consignee), and any other party to the transaction, whether principal or agent, including but not limited to brokers, representatives, or other agents through whom the order was received;

(iii) Quantity, value and description of commodity or technical data to be exported; and

(iv) End use of the export.

If the applicant does not have the documentary evidence that is required, the evidence must be in the possession of the order party involved in the transaction.

(3) *Definitions.* (i) The term "applicant" is defined as the party (or his duly authorized agent) who, as the principal party in interest in the export transation, has the power and responsibility for determining and controlling the sending of the commodities and technical data out of the country and is thus, in reality, the exporter. The applicant must be subject to the jurisdiction of the United States. (ii) The term "order party" is defined as that person in the United States who conducted the direct negotiations or correspondence with the foreign purchaser or ultimate consignee and received the order from the foreign purchaser or ultimate consignee. (iii) The term "documentary evidence" means any document(s) from the foreign purchaser or his representative which contain the terms and conditions of an offer to buy the commodities or technical data for which the export license is requested. Such evidence may take the form of a contract signed by both parties, or of letters, telegrams, cables, confirmations, or other documents which set forth the terms of the offer of the foreign purchaser to buy or the acceptance by the foreign purchaser of the exporter's offer to sell. (iv) "Evidence of the facts relating to the purchase transaction" means any document(s) from the purchaser or ultimate consignee that contain the information required in a license application as set forth in § 372.6(a)(2) above. The printed name, address, or nature of business of the ultimate consignee or purchaser appearing on a letterhead or order form shall not constitute evidence of either his identity, country of ultimate destination, or end use of the commodities described in the application.

(4) *Order received by foreign agent.* An order received by a foreign agent of a U.S. exporter must be transmitted to the U.S. exporter before an application may be submitted. An application, however, will be accepted if it is based on an order from the foreign agent of a U.S. exporter covering commodities intended for general resale by the foreign agent to presently unknown end users.

(b) *Signature of order party.* The application must be signed by the order party, as well as by the applicant if they are different. The order party should be shown in the "Order Party's Certification" item on the application. The signature of the order party is not required, however, in cases where maintenance, repair, or operating supplies are to be exported for use and consumption by the ultimate consignee and not for resale, and where the applicant has complete records and information concerning the transaction(s), including all correspondence between the foreign consignee and the person in the United States who originally received the order (the order party).

(c) *Export transactions where no order has been received.*—(1) *Exceptions to the order requirement.* If no order has been received, or if an inquiry has been received that does not clearly meet the requirements of an order as defined in § 372.6(a)(1) above, the Office of Export Administration

will consider granting a waiver of the order requirement where the applicant is able to show that an exception is warranted. Some examples of reasons that, if fully substantiated, might warrant an exception are:

(i) An unusual expenditure of time, money or technical skill, in excess of ordinary sales expenses is necessary before negotiations for an order may be pursued and before a bid can be submitted or an order obtained.

(ii) The applicant is under an unusual obligation to export immediately the commodities or technical data covered because of a special trade or industry practice.

(iii) The export involves a sample, gift, relief, or charitable shipment, or other shipment where an order is not normally an element of the export transaction.

An applicant requesting such exception should submit with his application all required supporting documentation whenever possible and a statement explaining in full the reason(s) for the requested exception. If it is not possible to obtain the required documentation at the time the waiver request is submitted, these supporting documents shall be submitted as soon as they are obtainable. If the exception request is granted and the license is issued, certain conditions or limitations on the export may be imposed.

(2) *Inquiry regarding prospects of obtaining license or other authorization.* The Office of Export Administration gives a formal licensing decision only through the issuance of a license or other appropriate document. Such decisions are based upon the actual submission of a formal application or other formal request setting forth all the facts relevant to the export transaction and supported by all required documentation. However, if negotiations of the terms of an export order depend upon an indication of the prospects of obtaining an export license covering the transaction, the person proposing to export may submit an inquiry, before filing a license application. If at all possible, the Office of Export Administration will respond with a preliminary opinion on the outlook for approval. The inquiry, of course, should describe the proposed transaction in full detail and explain why an advisory opinion is needed.

(d) *Copies of documents.* Section 387.11 defines the recordkeeping requirements of the Office of Export Administration, including the types of documents that must be kept. In the course of processing an application, the Office of Export Administration may request either the originals or copies of the documents constituting evidence of an order. The time and manner of submission will be made known to the applicant at the time the request for submission is made. In accordance with § 375.5, all documents submitted in connection with a license application must be identified clearly as a part of that application. All terms and abbreviations must be explained, and an English translation of documents in a foreign language must be attached.

(e) *Changes in facts.* Answers to all items on the application shall be deemed to be continuing representations of the existing facts or circumstances. Any material or substantive change in the terms of the order, or in the facts relating to the purchase transaction or other transaction, shall be promptly reported to the Office of Export Administration, whether a license has been granted or the application is still under consideration. If a license has been granted, such changes shall be reported immediately to the Office of Export Administration, in accordance with the provisions of § 372.7(b), even though shipments against the license may be partially or wholly completed. Change in intermediate consignee must be reported on the Shipper's Export Declaration, and in certain cases an amendment to the export license is required. (See §§ 372.3(b)(3) and 372.11(e).)

(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 F.R. 64716 (1977).)

Dated: October 6, 1978.

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

[FR Doc. 78-29034 Filed 10-12-78; 8:45 am]

[3510-25-M]

PART 377—SHORT SUPPLY CONTROLS AND MONITORING

Change in Title and Addition of General Provisions: Monitoring

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

ACTION: Final rule.

SUMMARY: The Export Administration Act requires the monitoring of exports and contracts for exports of nonagricultural commodities under certain actual or threatened domestic short supply or price situations. While the Department conducts no export monitoring programs at present, this rule establishes the framework under which such monitoring programs will be conducted as the need arises. Additional provisions containing detailed instructions on the monitoring of specific commodities will be issued when a monitoring program(s) for such commodities is established.

EFFECTIVE DATE: October 13, 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, telephone 202-377-4196.

SUPPLEMENTARY INFORMATION: In the past, commodities designated for monitoring under provisions of section 4(c)(1) of the Export Administration Act of 1969, as amended, have been included in part 376 with specific instructions for preparing and submitting monitoring reports. This revision establishes a new § 377.15, "General Provisions: Monitoring", which explains the purpose of and the statutory provision for monitoring. Because requirements for monitoring reports will differ for each commodity, no attempt is made in § 377.15 to explain details of reporting. No commodities are being monitored by the Office of Export Administration at this time, but sections defining specific requirements will be added as commodities are designated for monitoring.

In order to identify accurately its new contents, part 377 has been retitled "Short Supply Controls and Monitoring." Section 377.1 is renamed "General Provisions: Short Supply Controls," and §§ 377.7 through 377.14 have been reserved in order to provide ample space for additional commodities which may be subject to short supply controls in the future.

Accordingly, part 377 of the Export Administration Regulations (15 CFR Part 377) is amended as follows:

1. The title of part 377 is amended to read as follows:

PART 377 SHORT SUPPLY CONTROLS AND MONITORING

2. The title of § 377.1 is amended to read as follows:

§ 377.1 General provisions: Short supply controls.

* * * * *

§§ 377.7-377.14 [Reserved]

3. Sections 377.7 through 377.14 are added and reserved.

* * * * *

4. A new § 377.15 is added to read as follows:

§ 377.15 General provisions: Monitoring.

(a) *Statutory requirements.* Section 4(c)(1) of the Export Administration Act of 1969, as amended, requires the monitoring of exports and contracts for exports, of any article, material or supply (except those commodities subject to the reporting requirements of section 812 of the Agricultural Act of 1970) when the volume of such exports in relation to domestic supply contributes, or may contribute, to an increase in domestic prices or a domestic shortage, and such price increase or shortage has, or may have, a serious impact on the economy or any sector thereof. The Act further requires that such monitoring shall commence at a time adequate to insure that data sufficient to permit achievement of the policies of the Act will be available in a timely fashion. These statutory requirements are implemented primarily by the provisions contained in this part 377.

(b) *Commodities subject to monitoring.* Commodities currently subject to export monitoring are listed in supplements to this part 377.

(c) *Reporting requirements.* Reports are submitted on form DIB-661P, monitoring report. Data to be submitted, reporting periods, and details of the reporting vary according to the commodities being monitored. Form DIB-661P is a general purpose form which is modified as may be necessary for specific monitoring programs. Part 1 of the form may be used alone or in conjunction with part 2. Refer to the sections on specific commodities subject to monitoring below for details on reporting requirements and specific instructions on preparing and submitting reports.

NOTE.—As of (publication date), no commodities were subject to export monitoring pursuant to section 4(c)(1) of the Export Administration Act of 1969, as amended.

(d) *Publication of monitoring reports.* To the extent practicable, the results of this monitoring are aggregated and included in weekly reports compiled by the Office of Export Administration, setting forth with respect to each article, material, or supply monitored, actual and anticipated exports, the destination by country, and the domestic and worldwide price, supply and demand. If there is sufficient information to justify weekly reports, the Office of Export Administration may compile reports on a monthly basis. In either instance the reports are published in the FEDERAL REGISTER.

(e) *Confidentiality.* The information obtained in the monitoring programs is subject to the confidentiality provisions of section 7(c) of the Export Administration Act of 1969, as amended.

(f) *Control decisions.* The information obtained through monitoring and contained in the reports is also used by the Department of Commerce in determining whether the export of the commodities subject to monitoring should be controlled.

(g) To the extent consistent with the monitoring provisions of this part 377, the other portions of the Export Administration's regulations are applicable to such provisions, including the enforcement, recordkeeping and penalty provisions contained in parts 387 and 388 of this chapter.

(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).)

Dated: October 6, 1978.

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

[FR Doc. 78-29035 Filed 10-12-78; 8:45 am]

[6750-01-M]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket C-2927]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Public Service Co. of Colorado

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair acts and practices and unfair methods of competition, this provisionally accepted consent agreement, among other things, would require a Denver, Colo, utility company to cease, in connection with the advertising and sale of non-utility products and services, failing to properly provide consumers with credit disclosures required by Federal Reserve Systems regulations.

DATES: Complaint and order issued Sept. 12, 1978.[1]

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

FOR FURTHER INFORMATION CONTACT:

Paul C. Daw, Director, 6R, Denver Regional Office, Federal Trade Commission, Suite 2900, 1405 Curtis St., Denver, Col. 80202, 303-837-2271.

SUPPLEMENTARY INFORMATION: On Wednesday, May 3, 1978, there was published in the FEDERAL REGISTER, 43 FR 19053, a proposed consent agreement with analysis In the Matter of Public Service Co. of Colorado, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

A comment was filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR 13, are as follows: Subpart—Advertising Falsely or Misleadingly; § 13.73 Formal regulatory and statutory requirements; § 13.73-92 Truth in Lending Act; § 13.155 Prices; § 13.155-95 Terms and conditions; § 13.155-95(a) Truth in Lending Act; § 13.205 Scientific or other relevant facts. Subpart—Misrepresenting Oneself and Goods—Goods: § 13.1623 Formal regulatory and statutory requirements; § 13.1623-95 Truth in Lending Act—Prices: § 13.1823 Terms and conditions; § 13.1823-20 Truth in Lending Act. Subpart—Neglecting, Unfairly or Deceptively, to Make Material Disclosure: § 13.1852 Formal regulatory and statutory requirements; § 13.1852-75 Truth in Lending Act; § 13.1892 Sales contract, right-to-cancel provision; § 13.1892-10 Recording liens or executing judgment on same; § 13.1905 Terms and conditions; § 13.1905-60 Truth in Lending Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 82 Stat. 146, 147; 15 U.S.C. 45, 1601, et seq.)

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-28859 Filed 10-12-78; 8:45 am]

[6355-01-M]

CHAPTER II—CONSUMER PRODUCT SAFETY COMMISSION

PART 1500—HAZARDOUS SUBSTANCES AND ARTICLES; ADMINISTRATION AND ENFORCEMENT REGULATIONS

Exemption From Labeling Requirements for Certain Writing Instruments Cartridges

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: The Consumer Product Safety Commission exempts certain rigid or semirigid writing instrument cartridges from the labeling requirements of the Federal Hazardous Substances Act insofar as such requirements would apply because the ink contained in the cartridge is a hazardous substance because it is "toxic" as defined by the Commission's regulations and/or because the ink contains 10 percent or more by weight of ethylene glycol or diethylene glycol. The exemption was issued because the conditions specified in the exemption are such that full compliance with the labeling requirements otherwise applicable under the Act is not necessary for the adequate protection of the public health and safety.

DATES: The effective date of the exemption is October 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles M. Jacobson, Directorate for Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. 20207, phone 301-492-6400.

SUPPLEMENTARY INFORMATION: Under section 2(f) of the Federal Hazardous Substances Act ("the Act"), 15 U.S.C. 1261(f), the term "hazardous substance" includes any substance or mixture of substances which is "toxic" if such substance or mixture of substances may cause substantial personal injury or substantial illness during, or as a proximate result of, any customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion by children. The term "hazardous substance" also includes any substances which the Consumer Product Safety Commission by regulation finds meet this definition. Section 2(g) of the Act defines toxic as including "any substance * * * which has the capacity to produce personal injury or illness to man through ingestion * * *." Section 2(p) of the Act provides that a hazardous substance which is intended, or packaged in a form suitable, for use in the household or by children is misbranded if it does not bear a label conspicuously stating certain specified information and warning statements. The Commission's regulations (16 CFR 1500.3(c)(2)) further define "toxic" as including any substance that produces death within 14 days in half or more of a group of white rats (each weighing between 200 or 300 grams) when a single dose of from 50 milligrams to 5 grams per kilogram of body weight is administered orally. (The dosage required to produce death in one-half of the rats in this test is referred to as the LD-50 single oral dose.)

Section 3(b) of the Act (15 U.S.C. 1262(b)) authorizes the Commission to issue regulations establishing reasonable variations or additional label requirements if it finds that the requirements of section 2(p)(1) of the Act are not adequate for the protection of the public health and safety in view of the special hazard presented by any particular hazardous substance. Pursuant to section 3(b) of the Act, the Commission's regulations (16 CFR 1500.14(b)(1, 2)) establish special labeling requirements for substances containing 10 percent or more by weight of diethylene glycol or ethylene glycol.

Section 3(c) of the Act provides that if the Commission finds that, because of the size of the package involved or because of the minor hazard presented by the substance contained therein, or for other good and sufficient reasons, full compliance with the labeling requirements of the Act is impractical or is not necessary for the adequate protection of the public health and safety, it may issue regulations exempting such substance from the requirements to the extent consistent with the adequate protection of the public health and safety.

Petition

In a petition received January 3, 1977 (HP 77-4), the Parker Pen Co. requested an exemption to the labeling requirements of the Act. The product category for which the exemption was requested was rigid or semirigid writing instrument cartridges that have a writing point and an ink reservoir containing ink as a free liquid and that comply with the following conditions:

(a) The cartridge is constructed so that the ink will emerge only from the writing tip under any reasonably foreseeable condition of manipulation and use.

(b) When tested by the method described in 16 CFR 1500.3(c)(2)(i), the ink does not have an LD-50 single oral dose of less than 2.5 grams per kilogram of body weight of the test animal.

(c) If the ink contains ethylene glycol or diethylene glycol, the amount of such substance, either singly or in combination, will not exceed 1 gram per cartridge.

(d) The cartridge will not contain more than 3 grams of ink.

The petition requested an exemption for these products from the special labeling requirements of 16 CFR 1500.13(b) (1, 2), which would otherwise apply if the ink had 10 percent or more by weight of ethylene glycol or diethylene glycol. The petition explained the functional advantages of using higher percentages of ethylene glycol or diethylene glycol. The petition also requested an exemption to the allowable LD-50 single oral dose limit for the unlabeled product (5.0 grams per kilogram of body weight) so that inks having an LD-50 of 2.5 grams per kilogram of body weight could be used. The petition stated that the lower LD-50 would allow additional freedom in the development of future ink formulations and provided data to support the minor hazard presented by the cartridges for which the exemption is sought, both on the basis of the requested LD-50 limit and on the basis of the use of more than 10 percent of ethylene glycol and/or diethylene glycol.

The Proposal

The Commission considered the data submitted with the petition and analyzed the degree of risk associated with ink cartridges that meet the conditions specified in the requested exemption.

The data available to the Commission showed that approximately 4,200 injuries that were associated with pens and marking pens were treated in hospital emergency rooms in the United States during calendar year 1976. Injuries caused by the ink itself would probably be included in the category of "dermatitis and poisonings," which constituted 4 percent of the reported diagnoses. No deaths in this category have been reported.

After considering the available data, the Commission found that, in view of the difficulty of extracting ink from the writing tip, and in view of the limitation of the amount of ink in each cartridge to 3 grams, the requested LD-50 single oral dose of 2.5 grams per kilogram of body weight of the test animal will provide an adequate degree of protection of the public health and safety. Similarly, the Commission found that the difficulty in extracting the ink from the tip and the limitation that the amount of ethylene glycol and/or diethylene glycol shall not exceed 1 gram per cartridge will provide an adequate degree of protection of the public health and safety where the percentage by weight of either of these substances is 10 percent or more. Accordingly, the Commission preliminarily found that full compliance with the labeling requirements otherwise applicable under the Federal Hazardous Substances Act is not necessary for the adequate protec-

tion of the public health and safety. As a result of this finding, the Commission proposed an exception for these ink cartridges, subject to the conditions described above (Nov. 14, 1977; 42 FR 58959).

Comment on the Proposal

In response to its proposal to exempt these ink cartridges from the full labeling requirements of the Act, the Commission received five comments. Two of these comments indicated general opposition to the granting of the exemption, and one comment was in favor of the exemption. The remaining two comments presented substantive issues concerning the proposed exemption and are discussed below:

1. One of these comments opposes the exemption as it would apply to cartridges containing ethylene glycol. The comment cites support for the proposition that ethylene glycol is a severe exposure hazard and questions whether "any studies [have] been conducted as to the other possible hazards, such as contact with the eye or flammability." This aspect of the comment overlooks the fact that the exemption does not apply to hazards other than toxicity. The act also applies to substances that are irritants or are flammable. Substances that are shown to be eye irritants or to be flammable, as defined in the Commission's regulations at §§ 1500.42, 1500.43 must meet the labeling requirements of the Act that are applicable to these hazards, and these requirements would not be affected by the proposed exemption. (The information available to the Commission indicates that ethylene glycol is not flammable.)

This comment also states that the objection to the exemption is based on (1) the fact that if anything can go wrong with an ink cartridge, it will, and (2) that small children who can't read will undoubtedly account for the vast majority of accidents. The Commission has considered the likelihood that a defective cartridge may allow access to the ink contained therein in concluding that the full labeling requirements of the FHSA are not necessary for the protection of the public health and safety in relation to the cartridges covered by the exemption. This aspect is also addressed by the condition in the exemption that the ink will emerge only from the writing tip under any reasonably foreseeable condition of manipulation and use. The fact that the group subject to the most risk of accidental ingestion is small children who can't read would not appear to be a reason to label these cartridges with warnings the children could not read.

For the reasons discussed above, the arguments in this comment in opposition to the proposed exemption are not persuasive, and the Commission still believes that issuing the exemption is consistent with the criteria set forth in section 3(c) of the FHSA.

2. A comment on the proposal was received from the Gillette Co., which stated that although Gillette did not oppose the objective of the proposed exemption nor any of its stated conditions, Gillette believes that the exemption is unnecessarily limited in that (1) it applies only if the ink were contained in the reservoir as a free liquid and (2) it applies only to writing instrument cartridges and not to writing instruments in general.

Concerning the first of those limitations, Gillette pointed out that many writing instruments contain ink which is contained in the reservoir within an absorbent material and not as a free liquid. They argue that these absorbent materials retain significant amounts of the ink that is stored in the reservoir and that they therefore allow less ink to be available for accidental ingestion than would be the case if the ink were in the reservoir as a free liquid. They conclude that writing instruments that contain absorbent material in the reservoir are inherently safer than those that do not and that the proposed limitation of "containing ink in the reservoir as a free liquid" should be deleted from the exemption.

Concerning the second limitation, Gillette argues that there is no logical or safety-related distinction between writing instrument cartridges and writing instruments in general.

After carefully considering the comments submitted by Gillette, the Commission agrees that there is no apparent reason why the conditions in the exemption that is issued below would not protect the public health and safety as adequately for writing instruments in general as for ink cartridges containing ink in the reservoir as a free liquid. However, before broadening the scope of the exemption as requested by Gillette, the Commission believes that it should propose these changes for public comment in order to obtain the benefit of any data, views, or arguments that interested persons believe should be considered by the Commission when it makes the final decision on whether or not Gillette's request should be granted. Accordingly, the Commission is issuing the exemption requested by Parker as originally proposed and will in the near future separately propose to expand the scope of the exemption as requested by Gillette.

Additional Issue

The labeling requirements from which an exemption is sought for these ink cartridges are intended to protect against the acute toxic effects that can occur soon after the ingestion of a hazardous substance. These labeling requirements are not intended to address the hazard of products that may cause cancer or other injuries a long time after the initial exposure. The test of rats provided for in § 1500.3(c)(2)(i) would not detect carcinogenic effects, because the test animals are observed for only 14 days and are given only a single oral dose of the substance.

The Commission's staff has noted that certain ink dyes are similar (but not identical) in chemical structure to dyes which are suspected of being carcinogenic. The regulation, if warranted, of any ink dyes that are ultimately determined to be carcinogenic would have to be accomplished in a separate rulemaking proceeding.

As explained above, the risks that may be associated with possibly carcinogenic substances do not relate to the categories of labeling requirements with which this exemption is concerned. In addition, the dyes could be used in presently marketed inks, regardless of whether the exemption is approved. Accordingly, the issue of the potential use of possible carcinogenic dyes is separate from the issues relating to this exemption.

Conclusion

After considering the petition, the comments on the proposal, and the information obtained by the Commission's staff, the Commission finds that because of the size of the package involved, the minor hazard of the substance contained therein, and for the other good and sufficient reasons discussed above, full compliance with the labeling requirements otherwise applicable under the Federal Hazardous Substances Act is impracticable and not necessary for the adequate protection of the public health and safety.

Because this rule grants an exemption, the requirement of the Administrative Procedure Act that publication shall be made not less than 30 days before the effective date (5 U.S.C. 553(d)) is not applicable, and the exemption is therefore effective immediately.

Therefore, pursuant to the Federal Hazardous Substances Act (secs. 2(f, p), 3(a-c), 74 Stat. 372, 374, 375, as amended; 15 U.S.C. 1261(f, p), 1262 (a-c)), the Commission amends title 16, chapter II, of the Code of Federal Regulations by adding to Subchapter C, Part 1500, § 1500.83, a new paragraph (a)(38) to read as follows (the text of the introductory portion of § 1500.83(a), although unchanged, is included for context):

§ 1500.83 Exemption for small packages, minor hazards, and special circumstances.

(a) The following exemptions are granted for the labeling of hazardous substances under the provisions of § 1500.82:

* * * * *

(38) Rigid or semirigid writing instrument cartridges having a writing point and an ink reservoir and containing ink in the reservoir as a free liquid are exempt from the labeling requirements of section 2(p)(1) of the act (repeated in § 1500.3(b)(14)(i) of the regulations) and of regulations issued under section 3(b) of the act (§ 1500.14(b)(1,2)) insofar as such requirements would be necessary because the ink contained therein is a "toxic" substance as defined in § 1500.3(c)(2)(i) and/or because the ink contains 10 percent or more by weight ethylene glycol or diethylene glycol, if all the following conditions are met:

(i) The writing instrument cartridge is of such construction that the ink will, under any reasonable foreseeable condition of manipulation and use, emerge only from the writing tip.

(ii) When tested by the method described in § 1500.3(c)(2)(i), the ink does not have an LD-50 single oral dose of less than 2.5 grams per kilogram of body weight of the test animal.

(iii) If the ink contains ethylene glycol or diethylene glycol, the amount of such substance either singly or in combination does not exceed 1 gram per writing instrument cartridge.

(iv) The amount of ink in the writing instrument cartridge does not exceed 3 grams.

(Secs. 2(f, p), 3(a-c), 74 Stat. 372, 374, 375, as amended; 15 U.S.C. 1261(f, p), 1262(a-c).)

Effective date: This amendment becomes effective October 13, 1978.

Dated: October 10, 1978.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

[FR Doc. 78-29053 Filed 10-12-78; 8:45 am]

[8010-01-M]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 34-15215, IA-640]

PART 275—RULES AND REGULATIONS, INVESTMENT ADVISERS ACT OF 1940

Applicability of the Investment Advisers Act to Certain Brokers and Dealers

AGENCY: Securities and Exchange Commission.

ACTION: Response to requests for comment.

SUMMARY: The Commission previously announced that it would allow a temporary exemption from the Investment Advisers Act of 1940 for certain brokers and dealers to expire. In addition, the Commission set forth current staff views on the meaning of the term "special compensation" and solicited public comments on those views and on the question whether brokers or dealers who have discretionary authority over customers' accounts should, per se, be considered investment advisers with respect to such accounts. The staff has decided not to modify at this time its previously expressed views concerning "special compensation" and the Commission has decided not to take any action at this time concerning brokers or dealers who have discretionary authority over customers' accounts.

FOR FURTHER INFORMATION CONTACT:

Michael Berenson, Esq., Division of Investment Management, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, 202-755-1815.

SUPPLEMENTARY INFORMATION:

BACKGROUND

The adoption of Rule 19b-3 (17 CFR 240.19b-3)[1] under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) ("Exchange Act"), if followed by the "unbundling" of brokerage commission charges and charges for research and other investment advice, could have caused those brokers or dealers who unbundled to become investment advisers as that term is defined in the Investment Advisers Act of 1940 (15 U.S.C. 80b-1 et seq.) ("Advisers Act"). To allow time for adjustment, the Commission adopted a series of temporary exemptions from the Advisers Act, in the form of Rule 206A-1(T) (17 CFR 275.206A-1(T)) under the Advisers Act, for certain brokers and dealers who had been registered pursuant to Section 15 of the Exchange Act (15 U.S.C. 78o) prior to the May 1, 1975 effective date of Rule 19b-3 and who were not then registered as investment advisers.

On April 27, 1978, the Commission issued a release[2] in which it announced the final extension of Rule 206A-1(T), until October 31, 1978. A current staff interpretation of the term "special compensation" as used in section 202(a)(11)(C) of the Advisers Act[3] (15 U.S.C. 80b-2(a)(11)(C)) was also set forth and public comments were solicited on those views and on the question whether brokers or dealers who have discretionary authority over customers' accounts should, per se, be considered investment advisers with respect to such accounts. The Commission has considered the comments received and has determined not to take any action at this time with respect to brokers or dealers who exercise discretionary authority over their customers' accounts. Further, the Division of Investment Management ("Division") has reviewed the comments which discussed the term "special compensation" and intends for the present to continue to interpret that term in the manner described in Advisers Act Release No. 626. The Commission also notes that the temporary exemption will expire on October 31, 1978, as previously announced and that the staff will consider other rule changes suggested by commentators.

COMMENTS RECEIVED

As was stated in that release, the Division, as a general principle, regards special compensation as existing only where there is a clearly definable charge for investment advice. The release then set forth certain applications of this principle to specific situations.

Two public commentators addressed themselves to this issue. One expressly agreed with, and the other did not appear to object to, the controlling interpretative principle. They did disagree, in differing respects, as to the application of the principle to certain situations.

The Division believes the best approach for now is to continue to inter-

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[1] Rule 19b-3 prohibits any national securities exchange from adopting or retaining any rule that requires, or from otherwise requiring, its members to charge fixed rates of commission for transactions executed on, or by the use of the facilities of, such exchange.

[2] Advisers Act Release No. 626, Securities Exchange Act Release No. 14714, 43 FR 19224 (May 4, 1978).

[3] Section 202(a)(11)(C) excludes from the definition of an investment adviser "any broker or dealer whose performance of such (advisory) services is solely incidental to the conduct of his business as a broker or dealer and who receives no special compensation therefor."

pret this term as described in Advisers Act Release No. 626, believing that if experience is gained with concrete situations, a better basis would exist for making any interpretative change. In that connection, the Division will be mindful of the desirability of price competition between brokers who unbundle services and those who do not unbundle, to the extent compatible with adequate protection of users of advisory services.

Several commentators addressed the Commission's statement that it was considering whether to take action so that the exclusion in section 202(a)(11)(C) would not be available to a broker-dealer who manages his customers' accounts on a discretionary basis. The commentators questioned the Commission's statutory authority to limit the scope of the exclusion in section 202(a)(11)(C). In addition, the commentators asserted that there were policy reasons which mitigate against this approach. The Commission has determined not to take such action at this time. The Commission's staff will continue to examine the applicability of the Federal securities laws to discretionary accounts. For the present, the Division will continue to take the position that brokers or dealers who exercise discretionary authority over a limited number of their customers' accounts, but do not receive special compensation for such services, can rely on the exclusion in section 202(a)(11)(C). However, if the business of a broker or dealer consists almost exclusively of managing accounts on a discretionary basis, the Division would not regard such broker or dealer as providing investment advice solely incidental to his business as a broker or dealer and therefore the broker or dealer would not be eligible for the exclusion in section 202(a)(11)(C).

Three commentators suggested that the temporary rule be further extended to allow for further study. While the Commission will continue to give attention to these matters, it does not appear at present that statutory standards (set forth in section 206A of the Advisers Act (15 U.S.C. 80b-6A)) are met for granting an exemption to broker-dealers broader than that which the Advisers Act already provides.

Two commentators suggested (a) a modification of Rule 206(3)-2 (17 CFR 275.206(3)-2),[4] relating to certain agency transactions and (b) the adoption of a similar rule under section 206 (15 U.S.C. 80b-6) relating to principal transactions, to ease burdens on dual registrants. The staff will give active attention to these suggestions.

[4] Rule 206(3)-2 under the Advisers Act was adopted on June 1, 1977, Advisers Act Release No. 589, 42 FR 29300, June 8, 1977.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

OCTOBER 5, 1978.

[FR Doc. 78-28880 Filed 10-12-78; 8:45 am]

[4110-03-M]

Title 21—Food and Drugs

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

SUBCHAPTER B—FOOD FOR HUMAN CONSUMPTION

[Docket No. 75P-0361]

PART 136—BAKERY PRODUCTS

Amendment of Standards of Identity

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the standards of identify for bread, rolls, and buns by removing the limit on the use of mono- and diglycerides of fat-forming fatty acids, diacetyl tartaric acid esters of mono- and diglycerides of fat-forming fatty acids, propylene glycol mono- and diesters of fat-forming fatty acids, and other ingredients that perform a similar function. The Commissioner for Food and Drugs has determined that it is appropriate to remove these limitations from the standards because technical considerations make it unlikely that excessive amounts of these ingredients would be used.

DATES: Effective November 14, 1978; objections by November 13, 1978.

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

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of May 26, 1978 (43 FR 22728), the Food and Drug Administration published a proposal to amend the standards of identity for bread, rolls, and buns as set forth in § 136.110 (21 CFR 136.110) of the regulations by removing the limit on the use of mono- and diglycerides of fat-forming fatty acids, diacetyl tartaric acid esters of mono- and diglycerides of fat-forming fatty acids, propylene glycol mono- and diesters of fat-forming fatty acids, and other ingredients that perform a similar function. These ingredients are frequently used in breadmaking as antistaling agents to delay the firming of bread. Provision for the optional use of these ingredients was included in a revision of the standards for bread published in the FEDERAL REGISTER of February 12, 1976 (41 FR 6242). Section 136.110(c)(5)(ii) limited the total quantity to not more than 0.5 part for each 100 parts by weight of flour used, but the provision was stayed by objections to the effect that the limit is unnecessarily restrictive. The May 26, 1978 proposal to remove the limit was made because information became available to the Commissioner of Food and Drugs demonstrating that more than 0.5 part of mono- and diglyceride mixtures per 100 parts of flour is frequently required, and that technical considerations make it unlikely that excessive amounts of these or other bread softeners would be used. The Commissioner also proposed certain editorial changes in § 136.110(c)(15) and (18). Interested persons were invited to submit comments by July 25, 1978. No comments were received.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046, 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 revising paragraph (c)(5)(ii), (15), and (18) to read as follows:

§ 136.110 Bread, rolls, and buns.

* * * * *

(c) * * *
(5) * * *

(ii) Mono- and diglycerides of fat-forming fatty acids, diacetyl tartaric acid esters of mono- and diglycerides of fat-forming fatty acids, propylene glycol mono- and diesters of fat-forming fatty acids, and other ingredients that perform a similar function.

* * * * *

(15) Dough strengtheners and other dough conditioners not listed or referred to in this paragraph, if the total quantities of such ingredients or combination is not more than 0.5 part for each 100 parts by weight of flour used.

* * * * *

(18) Other ingredients that do not change the basic identity or adversely affect the physical and nutritional characteristics of the food.

* * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before November 13, 1978, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 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 14, 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.

(Secs. 401, 701(e), 52 Stat. 1046, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e)).)

Dated: October 4, 1978.

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

[FR Doc. 78-28782 Filed 10-12-78; 8:45 am]

[4110-03-M]

SUBCHAPTER D—DRUGS FOR HUMAN USE

[Docket No. 77N-0149]

PART 310—NEW DRUGS

Requirements for Patent Labeling for Progestational Drug Products

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The agency is issuing a final regulation to require patient labeling for progestational drug products. The new labeling requirements will provide consumers with written information concerning the risks of use of progestational drug products during the early stages of pregnancy. The regulation specifies the kind of information and warnings to be contained in the patient labeling and states how the labeling is to be made available to the patient.

EFFECTIVE DATE: December 12, 1978.

FOR FURTHER INFORMATION CONTACT:

Steven Unger, Bureau of Drugs (HFD-30), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-5220.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of July 22, 1977 (42 FR 37643), the Food and Drug Administration (FDA) proposed a new requirement for patient labeling of progestational drug products. The agency proposed requiring that written information describing the risks of birth defects associated with drug use during the first 4 months of pregnancy be distributed to patients taking progestational drugs. Interested persons were given until September 20, 1977 to submit written comments. More than 200 individuals, physicians, manufacturers, and professional and trade organizations commented on the proposal. The following discussion summarizes and responds to the most substantial issues raised by the comments:

1. *Statutory authority.* Several comments challenged the agency's statutory authority under the Federal Food, Drug, and Cosmetic Act to require patient labeling. The comments suggested that the sections of the act cited as authority do not provide such authority.

The Commissioner of Food and Drugs has concluded that the Federal Food, Drug, and Cosmetic Act authorizes the promulgation of patient labeling requirements. This issue was discussed in detail in paragraph 4 of the preamble to the proposed regulation on the content and format of prescribed drug labeling, published in the FEDERAL REGISTER of April 7, 1975 (40 FR 15392). It has been similarly discussed in the final regulations requiring patient labeling for estrogenic drug products, published in the FEDERAL REGISTER of July 22, 1977 (42 FR 37636), and revising the requirements for patient labeling for oral contraceptives, published in the FEDERAL REGISTER of January 31, 1978 (43 FR 4214). The Commissioner advises that the statement of the authority to issue patient labeling requirements stated in those FEDERAL REGISTER documents applies equally to the requirements issued herein.

2. *Progesterone and hydroxyprogesterone.* A number of comments objected to the inclusion of certain drug products in the class of progestational drugs requiring patient labeling. In particular, the comments noted certain characteristics of progesterone and hydroxyprogesterone that distinguish these drugs from the other progestational drug products and warrant excluding progesterone and hydroxyprogesterone from the warning about teratogenic risk. Progesterone, the comments argued, is a physiologically occurring hormone that is present during normal pregnancy in blood levels considerably higher than can be produced in therapeutic dosages by exogenous administration. The comments pointed out, moreover, that the references cited in physician labeling upon which the inclusion of hydroxyprogesterone is based implicate the drug in only one instance of congenital anomaly, although the drug is probably the most widely used progestational agent.

The Commissioner concludes that differences that would warrant a distinction in the labeling between progesterone, hydroxyprogesterone, and other progestational drug products have not been adequately demonstrated. A recent article appearing in the literature on the subject of sex hormones used in pregnancy and congenital anomalies notes that in the group of patients who received progestogens only, cardiovascular malformations occurred at a rate of 16.4 per 1,000, while a rate of 7.8 per 1,000 was recorded in offspring of patients who did not receive female sex hormones during pregnancy (Heinonen et al., "Cardiovascular Birth Defects and Antenatal Exposure to Female Sex Hormones," *New England Journal of Medicine*, 296:67, 1977). (A copy of this article is on file in the office of the Hearing Clerk, Food and Drug Administration.) Of particular interest, the Commissioner notes that in the group receiving only progestogens, of 7 cases reported with cardiovascular malformations, 2 were exposed to progesterone alone while a third case was given progesterone along with norethindrone. Three other cases received a progesterone derivative exclusively.

Although these data do not confirm a cause and effect relationship with progesterone, they do raise an element of suspicion which could require a considerably larger study to rule out a positive relationship. It is true that in several published studies progesterone per se was not specifically implicated, but it is also true that in many cases the route of administration mentioned suggests that the exact hormone

given, although not known, could very well have been progesterone.

Furthermore, in view of the large number of orally active progestational drugs available and the limited number of studies conducted, the Commissioner would expect to find that in some studies no cases were associated with the use of injectable products such as progesterone or hydroxyprogesterone. Finally, in no study did any one specific hormone stand out, but rather sex hormones—both estrogens and progestogens—have been implicated as a class.

The Commissioner does not agree that the safety of exogenous progesterone is demonstrated by the high rate of endogenous secretion of progesterone during pregnancy. In pregnancy, there is also a high rate of secretion of estrogens, yet the exogenous use of all estrogens is contraindicated during pregnancy because of reported adverse fetal effects. Furthermore, the use of exogenous progesterone could produce a progesterone level in patients that would be in excess of the normal range for a particular phase of pregnancy and that could conceivably have an adverse fetal effect.

In summary, the Commissioner believes that there is not sufficient evidence to permit the exclusion of any of the progestational drug products from the patient labeling requirements. If more information becomes available that can be relied upon to distinguish within the class, certain progestational drug products may be exempted from the patient labeling requirements.

3. *Consistency with previously announced policies.* One comment recommeded that the implementation of a patient labeling regulation for progestational drug products be delayed until an overall policy on patient prescription drug labeling is published. The comment argued that such a course of action would be consistent with FDA's previously announced policy, published in the FEDERAL REGISTER of November 7, 1975 (40 FR 52075). The comment urged, moreover, that intensive, scientifically controlled analysis of all the benefits and risks associated with patient labeling be undertaken and the cumulative results of such analysis utilized before implementation of a patient labeling program for particular prescription drugs, including progestational drugs.

The Commissioner does not believe that promulgation of this final regulation represents a departure from previously announced policies. As noted in paragraph 5 of the preamble to the July 22, 1977 final regulation requiring patient labeling of estrogenic drug products, the Commissioner did not intend the November 7, 1975 notice to suggest that FDA would defer the adoption of requirements for patient labeling for specific drugs when the need for such labeling was clearly demonstrated. In the case of progestational drug products, the Commissioner believes that such a need has been demonstrated and that it is necessary to supplement and reinforce the physician's discussion of the risks of progestational drug products with a written warning to the patient concerning the teratogenic risks associated with use of the drug during the early stages of pregnancy.

The Commissioner is committed to a systematic evaluation and analysis of the effectiveness of patient labeling to assist in preparing and designing a better patient labeling program. This commitment, however, does not necessitate a delay in implementing patient labeling for particular drugs, especially where patient labeling will perform the limited function of communicating a specific warning regarding the risks of drug use.

4. *Interference in practice of medicine.* Several comments contended that implementation of the regulations would result in significant Federal interference in the practice of medicine and infringement on the physician/patient relationship. The comments suggested that this result was contrary to past expressions of congressional policy.

The Commissioner rejects this contention. This issue was fully discussed in paragraph 3 of the preamble to the July 22, 1977 final regulation requiring patient labeling of estrogenic drug products, and the Commissioner reaffirms the conclusions stated in that publication. Patient labeling is not intended to preempt the physician's responsibility, nor will it have that effect. Rather, in situations where physicians are conscientious in discussing the relative benefits and risks of progestational drugs with their patients, the patient labeling will simply reinforce what the physician has explained to the patient and serve as a written reminder that can be referred to by the patient during the course of therapy. Even in those situations in which information regarding the benefits and risks of drug use is not fully provided by the physician, the labeling is not intended to supersede the role of the physician in informing the patient or to interfere in any way with communications between physician and patient.

5. *Requests for delay in implementation.* Two comments noted that litigation is pending in several Federal courts challenging FDA's authority under the act to require patient labeling for prescription drug products. The comments requested that FDA not issue this regulation until a final decision that FDA does have such authority is made. The Commissioner has determined that deferral of a final regulation requiring patient labeling for progestational drug products would not be in the public interest. The Commissioner believes that to assure the safe and effective use of progestational drug products, women should be provided with written information telling them of the risks of using such drug products during pregnancy. A deferral of this regulation until a final judicial determination of the agency's statutory authority would deprive many women of the benefit of that written information and would increase the likelihood that some women to whom the drug is prescribed would take the drug, ignorant of its risks. The Commissioner notes that the authority to require patient labeling of prescription drugs has been preliminarily upheld by the one court that has reviewed the matter (*Pharmaceutical Manufacturers Association* v. *FDA*, No. 77-291 (D. Delaware, October 5, 1977) (order denying preliminary injunction)).

6. *Distribution of labeling in health-care institutions.* One comment noted that it is impractical to provide patient labeling each time a dose is dispensed to inpatients in health-care institutions. The comment recommended that the proposed distribution requirements be revised by permitting health-care institutions to provide patient labeling to patients before the first dose is administered or, if it is a long-term care facility, before the first administration and every 30 days thereafter.

As indicated in paragraph 11 of the preamble to the July 22, 1977 final regulation requiring patient labeling for estrogen drug products, the Commissioner agrees that hospitals and other health-care institutions should have some flexibility in meeting requirements regarding distribution of patient labeling. The Commissioner concludes that it would be impractical and unnecessary to require that patient labeling be made available to the hospitalized or institutionalized patient every time a drug is administered. The final regulation has, therefore, been revised by providing in § 310.516(e) (21 CFR 310.516(e)) that in acute-care hospitals and long-term care facilities, the requirements of § 310.516 are met if patient labeling is provided to the patient before first administration of the drug, and every 30 days thereafter, as long as the therapy continues. This revision in the proposed regulation answers the objection raised by the comment, but avoids the somewhat complicated procedure that would result from having different requirements for acute-care and long-term care facilities.

7. *Directions for use.* One comment recommended that § 310.516(b) be amended by adding a requirement for a statement regarding the need to take the drug only as directed and to follow precisely instructions for use of the drug.

The Commissioner recognizes the importance of such information and believes that in the usual case patient labeling can perform a useful role in conveying warnings of the kind recommended by the comment. The Commissioner does not believe, however, that progestational drug product patient labeling is the most appropriate vehicle for conveying information which pertains to the use of all drugs, because progestational drug product labeling is intended to convey a very specific and relatively brief message about the risks of birth defects. The Commissioner is, in this case, particularly convinced of the need to avoid burdening the text of the labeling with the kind of additional statements recommended by the comment. Therefore this comment is rejected.

8. *Inflationary impact of intended action.* One comment objected to the statement in the preamble to the proposed regulation that FDA had determined that the document did not contain a major proposal requiring preparation of an inflation impact statement. The comment argued that a substantial increase in drug prices would result from implementation of a patient labeling requirement, reflecting costs incurred by disruption of presently utilized methods of packaging, labeling, storing, and dispensing progestational drug products.

The Commissioner believes that the figures quoted in the economic impact assessment placed on file with the Hearing Clerk when the proposal was published accurately approximate the direct impact the proposed requirement will have on the costs of progestational drug products. Possible indirect costs resulting from the patient labeling requirement are not reflected in the assessment, but the Commissioner notes the hypothetical nature of such costs and the difficulty of quantifying these costs in specific dollar amounts. In this regard, the Commissioner regrets that the comment submitted on this matter does not more specifically describe the nature or estimate the magnitude of the potential cost increases involved.

The comment also appears to misunderstand the basis upon which FDA determines whether a document requires preparation of an impact statement. Not all proposed actions with some potential economic impact require preparation of an economic impact statement (currently identified as a regulatory analysis). What is required, and what has been done in this case, is the preparation of an economic impact assessment setting forth the criteria and the threshold amounts for determining whether an action will have a major inflation impact. Only if the action will have a major impact is an impact statement required. Here, assuming that all potential cost increases referred to in the comment are realized, it is clear that these costs, added to the costs already reflected in the economic impact assessment, do not meet the criteria or reach the threshold amounts described in the assessment. Therefore, measured against the standards as set forth in the assessment, the progestational drug patient labeling requirement is not an action that will have a major economic impact and does not require the preparation of an economic impact statement. The economic impact assessment for this action is on file with the Hearing Clerk, FDA.

9. *Effective date provisions.* A manufacturer with extensive warehouse and distribution facilities objected to the schedule for implementing the patient labeling requirements. The comment noted that the effective date provisions as outlined in proposed § 310.516(e)(4) would, if finalized, require the burdensome and costly retrieval and relabeling, by the effective date, of drug products packaged before the effective date. The comment urged that the "catch-up" provisions be deleted so that the new patient labeling requirements would apply only to products packaged after the effective date.

Another comment suggested that, in light of the importance of progestational patient labeling, the regulation be made effective immediately upon publication in the FEDERAL REGISTER.

The Commissioner does not believe that it would be in the best interest of patients to limit the applicability of the regulation to those drug products packaged after the effective date. A limitation of that kind would clearly delay the time by which the labeling will be available to all patients. It could also result, because of differences in manufacturing inventories, in variations in the time when products with patient labeling would begin to be furnished to patients. The effective date provision as proposed and as adopted herein is intended to prevent any further distribution of progestational drugs without patient labeling on or after the effective date, without necessitating the recall of stock in the possession of persons who are not responsible for the content of the labeling.

At the same time, the Commissioner rejects the comment that urged that the regulation be effective immediately upon publication. That policy would increase the likelihood of disruption and delays in the supply of progestational drugs. The Commissioner believes that the 60 days allowed for manufacturers to comply with the patient labeling requirements will provide patient labeling at an early date, insure a steady supply of the drug product to patients, and not unduly burden manufacturers.

10. *Ongoing distribution of patient labeling.* The Commissioner is also revising § 310.516(e)(2) to provide that in the case of progestational drug products in bulk package intended for multiple dispensing, a sufficient number of patient-labeling pieces "shall be included in or shall accompany each bulk package" to assure that the labeling can be furnished with each package dispensed to the patient. This revision is intended to clarify that patient labeling must physically accompany the drug product but need not be actually placed inside the immediate bulk package container.

The Commissioner anticipates that manufacturers and labelers will employ a reliable statistical method to determine how many patient-labeling pieces must be included in or with each bulk package, but recognizes that in some cases additional pieces may, for a variety of reasons, be required. The Commissioner is therefore adding a sentence to § 310.516(e)(2) to indicate that the manufacturer or labeler may also employ a supplementary distribution system to supply additional patient labeling to the dispenser. That system shall not, however, act as a substitute for the requirement that patient labeling be supplied in or with each bulk package.

11. *Use of uniform labeling.* The final regulation adopts without change the proposed requirements that the labeling identify both the name of the drug product and the name and place of business of the manufacturer, packer, or distributor. These provisions are intended to assure that the labeling can be satisfactorily related to and dispensed with a specific manufacturer's drug products. However, the Commissioner is aware that similar provisions in the final regulation requiring patient labeling for estrogenic drug products have elicited objections from a number of prescription drug dispensers who point out that these provisions preclude the use of uniform or "generic" labeling and require the storage, collation, and distribution of large numbers of individualized patient-labeling leaflets. In response to these objections, the Commissioner has tentatively concluded that certain revisions are appropriate to facilitate the use of uniform labeling. Published elsewhere in this issue of the FEDERAL REGISTER is a proposal which, if finalized, will enable dispensers to use class

labeling suitable for all drugs subject to the patient labeling regulations for estrogenic, oral contraceptive, and progestational drug products. Pending the receipt of comments and the final decision on the use of "generic" labeling, the Commissioner advises that he will not object to the use by dispensers of uniform labeling consistent with the provisions outlined in the accompanying proposal.

Section 310.516(f) requires that FDA make available progestational drug product patient labeling that is responsive to all items that are specified in § 310.516(b). A Drug Efficacy Study Implementation (DESI) notice containing both a guideline patient labeling text and revised physician labeling was published in the FEDERAL REGISTER of July 22, 1977 (42 FR 37646). Comments received in response to that notice have been carefully reviewed and the Commissioner has determined that no changes in the texts of either physician labeling or patient labeling are required. (An agency report responding to the most significant issues raised by the comments has been provided directly to a number of persons commenting on the notice. A copy of this report has been placed on file in the office of the Hearing Clerk, FDA.) The Commissioner advises that the text of the patient labeling as set forth in the July 22, 1977 notice is a guideline (see § 10.90 (21 CFR 10.90)) which, if followed, will enable any person to comply with the requirements of § 310.516(b) as finalized herein.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 701(a), 52 Stat. 1050–1053 as amended, 1055 (21 U.S.C. 352, 355, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), Part 310 is amended by adding new § 310.516 to Subpart E, to read as follows:

§ 310.516 Progestational drug products; labeling directed to the patient.

(a) The Commissioner of Food and Drugs concludes that the safe and effective use of any progestational drug product requires that patients be informed that there is an increased risk of birth defects in children whose mothers have taken this drug during the first 4 months of pregnancy. Accordingly, except as provided by paragraph (d) of this section, any progestational drug product that is the subject of a new drug application approved either before or after October 9, 1962 and all identical, related, or similar drug products as defined in § 310.6, whether or not the subject of an approved new drug application, shall be dispensed to patients with labeling in lay language containing such a warning. The patient labeling shall be provided as a separate printed leaflet independent of any additional materials.

(b) The patient labeling shall specifically include the following:

(1) Name of the drug.

(2) Name and place of business of the manufacturer, packer, or distributor.

(3) A warning that there is an increased risk of birth defects in children whose mothers take this drug during the first 4 months of pregnancy.

(4) A brief discussion of the nature of the risks of birth defects resulting from the use of these drugs during the first 4 months of pregnancy.

(5) A brief statement that these drugs are no longer considered safe as a test for pregnancy.

(6) A statement that the patient should inform her physician as soon as possible if she discovers that she was pregnant when she took the drug.

(c) The patient labeling shall be printed in accordance with the following specifications:

(1) The minimum letter size shall be one-sixteenth of an inch in height.

(2) Letter heights pertain to the lower-case letter "o" or its equivalent that shall meet the minumim height standard.

(3) Type used shall conform to the minimum letter height. The body copy shall contain 1-point leading, noncondensed type, and shall not contain any light-face type or small capital letters.

(d) This section does not apply to a progestogen-containing product intended for contraception, which shall be labeled according to the requirements of § 310.501.

(e)(1) Patient labeling for each progestational drug product shall be provided in or with each package intended to be dispensed to the patient. Patient labeling for drug products dispensed in acute-care hospitals or long-term care facilities will be considered to have been provided in accordance with this section if provided to the patient before first administration of the drug and every 30 days thereafter, as long as the therapy continues.

(2) In the case of progestational drug products in bulk packages intended for multiple dispensing, a sufficient number of patient-labeling pieces shall be included in or shall accompany each bulk package to assure that one can be included with each package dispensed to every patient. Each bulk package shall be labeled with instructions to the dispenser to include one patient-labeling piece with each package dispensed to the patient. This section does not preclude the manufacturer or labeler from distributing additional patient-labeling pieces to the dispenser.

(3) In the case of progestational drug products for injection, each package shall include a sufficient number of patient-labeling pieces for the volume of the vial, and instructions to the practitioner administering the drug to give one patient-labeling piece to each premenopausal woman, except those in whom childbearing is impossible, receiving the drug.

(4) Any progestational drug product, except as noted in paragraph (d) of this section, that is not labeled as required by this section and is either introduced or delivered for introduction into interstate commerce, or held for sale after shipment in interstate commerce, is misbranded pursuant to section 502 of the Federal Food, Drug, and Cosmetic Act. However, a progestational drug product in the possession of a wholesaler or retailer before December 12, 1978, is not misbranded if adequate numbers of copies of the patient labeling are furnished to the wholesaler or retailer to permit any retail purchaser after that date to obtain such labeling with the product. The requirement that any progestational drug product be dispensed with patient labeling, as applied to physicians who dispense or administer the drug, will not be effective for supplies in their possession on the effective date, but will apply only to supplies received thereafter.

(f) The Food and Drug Administration has available patient labeling for progestational drug products that includes information responsive to all items specified in paragraph (b) of this section. The labeling has been published in the FEDERAL REGISTER of July 22, 1977 (42 FR 37646) as part of a drug efficacy study implementation (DESI) notice. Any person may rely on this labeling as complying with paragraph (b) of this section after the effective date of this section.

(g) Holders of new drug applications for progestational drug products that are subject to this section shall submit supplements under § 314.8 of this chapter to provide for the labeling required by paragraph (a) of this section on or before December 12, 1978. The labeling may be put into use without advance approval by the Food and Drug Administration.

Effective date. This regulation shall be effective December 12, 1978.

(Secs. 502, 505, 701(a), 52 Stat. 1050–1053 as amended, 1055 (21 U.S.C. 352, 355, 371(a)))

Dated: October 3, 1978.

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

[FR Doc. 78-28572 Filed 10-12-78; 8:45 am]

[4110-03-M]

SUBCHAPTER F—BIOLOGICS

[Docket No. 78N-0119]

PART 610—GENERAL BIOLOGICAL PRODUCTS STANDARDS

Sterility; Membrane Filtration; Amendment

AGENCY: Food and Drug Administration.

ACTION: Final Rule.

SUMMARY: This document amends a section of the biologics regulations by revising the reference to the United States Pharmacopeia (U.S.P.). This change is being made to ensure consistency with improvements in the sterility test by membrane filtration as prescribed in the U.S.P.

EFFECTIVE DATE: October 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Iris Hyman, 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: The Bureau of Biologics is conducting a continuing review of the existing regulations governing biological products to assure that the criteria of safety, purity, potency, and effectiveness established by such regulations are updated to reflect current requirements for licensed products. consistent with the review, the Commissioner is amending § 610.12(f) (21 CFR 610.12(f)) to change the reference to the membrane filtration test from the 18th Revision of the U.S.P., to the 19th Revision, in order to update a procedure which manufacturers are in fact already using.

Therefore, under the Public Health Service Act (sec. 351, 58 Stat. 702, as amended (42 U.S.C. 262)) and under authority delegated to the Commissioner (21 CFR 5.1), § 610.12 is amended in paragraph (f) by revising the first sentence, to read as follows:

§ 610.12 Sterility.

* * * * *

(f) *Membrane filtration.* Bulk and final container material or products containing oil or products in water insoluble ointments shall be tested for sterility using the membrane filtration procedure set forth in the United States Pharmacopeia (19th Revision, 1975), section entitled "Membrane Filtration," pages 594-595, except that (1) the test samples shall conform with paragraph (d) of this section; (2) the temperature of incubation for the test using Fluid Thioglycollate Medium shall be 30° to 32° C; and (3) in addition, for products containing a mercurial preservative, the product shall be tested in a second test using Fluid Thioglycollate Medium incubated at 20° to 25° C in lieu of the test in Soybean-Casein digest Medium. * * *

* * * * *

Under the Adminsitrative Prodedure Act (5 U.S.C. 553(b) and (d)), the Commissioner concludes that notice, public procedure, and delayed effective date are unnecessary for the amendment of § 610.12(f) because it does not impose an additional duty or burden on any person, but rather relieves unnecessary requirements.

Effective date. October 13, 1978.

(Sec. 351, 58 stat. 702, as amended (42 U.S.C. 262))

Dated: October 3, 1978.

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

[FR Doc. 78-28573 Filed 10-12-78; 8:45 am]

[4710-07-M]

Title 22—Foreign Relations

CHAPTER XI—INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO, UNITED STATES SECTION

PART 1101—PRIVACY ACT OF 1974

Nomenclature Changes

AGENCY: International Boundary and Water Commission, United States and Mexico, United States Section.

ACTION: Final rule.

SUMMARY: This document amends the regulations relating to the Privacy Act of 1974 by changing references to the Comptroller to read FOIA Administrator. This change is due to an organizational change.

EFFECTIVE DATE: October 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Leo Van Reet, 915-543-7334.

In part 1101 of title 22 of the Code of Federal Regulations, the title "Comptroller" should be replaced by "FOIA Administrator" wherever it appears.

LEO VAN REET,
FOIA Administrator.

[FR Doc. 78-28974 Filed 10-12-78; 8:45 am]

[4510-26-M]

Title 29—Labor

CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

[Docket No. S-102]

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

PART 1926—SAFETY AND HEALTH REGULATIONS FOR CONSTRUCTION

Ground-Fault Protection; Supplemental Statement of Reasons

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

ACTION: Final rule; supplemental statement of reasons.

SUMMARY: This notice announces OSHA's decision to reaffirm the ground-fault protection standard (29 CFR 1910.309(c) and 1926.400(h)) as promulgated on December 21, 1976 (41 FR 55696). This decision is made after consultation with the Advisory Committee on Construction Safety and Health pursuant to remand by the U.S. Court of Appeals for the District of Columbia Circuit. No change is made in the ground-fault protection standard as promulgated on December 21, 1976.

FOR FURTHER INFORMATION CONTACT:

Mr. Gail Brinkerhoff, Office of Compliance Programs, OSHA, Third Street and Constitution Avenue, NW., Room N-3112, Washington, D.C. 20210, telephone 202-523-8034.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On December 21, 1976, OSHA promulgated a rule, to be effective February 22, 1977, requiring employers to provide either: (a) Ground-fault circuit interrupters on construction sites, or (b) a scheduled and recorded, assured equipment grounding conductor program (29 CFR 1910.309(c) and 1926.400(h); 41 FR 55696). This rule was promulgated after lengthy proceedings which are described in detail in the FEDERAL REGISTER document of December 21, 1976.

On February 17, 1977, the National Constructors Association petitioned the U.S. Court of Appeals for the District of Columbia Circuit, to review and set aside the rules OSHA had promulgated on ground-fault protection.

The court issued its decision on June 28, 1978 (*National Constructors Association* v. *Marshall*, C.A.D.C. No.77-

1197). The court found that the Assistant Secretary had not completely followed OSHA's rulemaking procedures in promulgating the ground-fault protection standard. Although the Advisory Committee on Construction Safety and Health had been consulted with regard to ground-fault circuit interrupters, the court found that no such consultation occurred specifically with regard to the alternative assured grounding conductor program. The court held that such consultation was required by OSHA's procedural rule found in 29 CFR 1911.10(a).

Accordingly, the court remanded the record to the Assistant Secretary with specific instructions to consult with the Committee. After discussing several possible results of the consultation with the Committee, and the appropriate action to be taken based on these results, the court concluded with the following:

> * * * once the Assistant Secretary has convinced himself of the wisdom of a chosen course of action after he has had the benefit of the Committee's recommendations, and once he is convinced that further public comment would shed no new light on the matter, he may return the record to this court for entry of an appropriate order. (Page 27.)

Inasmuch as the court did not find any "glaring deficiencies" in the evidence supporting the standard nor any other procedural or legal deficiencies, the court ordered that the regulation remain in effect during the time period necessary for consultation with the Advisory Committee and evaluation of its recommendations.

AGENCY ACTION AFTER COURT REMAND AND SUPPLEMENTAL STATEMENT OF REASONS

On July 20, 1978, at a previously scheduled meeting of the Advisory Committee on Construction Safety and Health, OSHA preliminarily notified the Committee of the court's decision. A brief oral summary of the decision was presented to the Committee. The Committee was then advised that a special meeting would be held on August 15, 16, and 17, 1978, in compliance with the court's instructions, to discuss the substantive issues of the ground-fault protection standard, and to solicit the Committee's recommendations. To assist the Advisory Committee in its review of the standard in preparation for the August meeting, OSHA provided each member with copies of the following documents:

1. A copy of the court decision.
2. An index of the rulemaking record on ground-fault protection.
3. FEDERAL REGISTER notice, vol. 40, No. 67, April 7, 1975, Ground-Fault Circuit Protection—Proposed Revocation of Standard (40 FR 15390).
4. FEDERAL REGISTER notice, vol. 40, No. 170, September 2, 1975, Notice of Hearing on Ground-Fault Circuit Protection.
5. The Ground-Fault Protection Standard, FEDERAL REGISTER, vol. 41, No. 246, December 21, 1976.

In addition, OSHA staff advised the Advisory Committee that other specific items in the record would be made available upon request.

Accordingly, on July 28, 1978, OSHA published a notice in the FEDERAL REGISTER (43 FR 32884) announcing that a meeting of the Advisory Committee on Construction Safety and Health was to be held on August 15, 16, and 17, 1978. The notice explained that the meeting was in response to the decision of the U.S. Court of Appeals for the District of Columbia Circuit in *National Constructors Association* v. *Marshall, supra,* regarding OSHA's ground-fault circuit protection standard (29 CFR 1910.309(c) and 29 CFR 1926.400(h)). At the meeting, the Advisory Committee would review said standard, and make such recommendations as appropriate.

Additionally the public was invited to submit written data, views, or arguments and anyone wishing to make an oral presentation was instructed to notify OSHA's Division of Consumer Affairs.

On August 15, 1978, the Advisory Committee meeting was convened in Washington, D.C. The legal framework of the Committee's deliberations was discussed by a member of the Solicitor's Office, and a complete technical presentation of the ground-fault protection standard was made by OSHA staff to the Advisory Committee. The technical presentation provided the data and rationale which led OSHA to promulgate the standard requiring the use on construction sites of either ground-fault circuit interrupters or an assured equipment grounding conductor program. This presentation included a review of the data in the official record and included the following subjects:

1. Low voltage electrical fatalities on construction sites;
2. Ground-fault protection requirements in OSHA regulations;
3. Need to supplement these requirements;
4. Method of supplementing the requirement for the utilization of an equipment grounding conductor;
5. Data available on efficacy of GFCI's;
6. Data available on viability of an assured equipment grounding conductor program;
7. Operating principle of GFCI's; and
8. Review of the entire ground-fault protection standard as promulgated on December 21, 1976.

Upon completion of OSHA's technical presentation, two scheduled oral presentations were given by public participants. Both proposed the use of a new device, presently under development, which would continuously monitor the presence of the equipment grounding conductor from the receptacle back to the electric supply. Neither device, in their present configuration, would monitor the equipment grounding conductor in tools. Testing and records of tests would still be manually accomplished for tools whenever an employer chose to use the assured equipment grounding conductor program. Both public participants acknowledged this limitation on their devices and agreed that although the test for tools would still be a manual one, the continuous monitoring of extension cords and receptacles would still result in benefits in both added safety and simpler implementation of the testing and recording of the equipment grounding conductor. Both participants noted that the devices they demonstrated were prototype models and not yet available on the open market. At the conclusion of their presentation, a member of the audience expressed his views on these devices. He indicated that these particular units might not be reliable enough, and, under certain conditions, could give false indications as to the presence of the equipment grounding conductor.

Three additional public participants gave their oral views on the ground-fault circuit protection standard. All three endorsed the standard as promulgated, including the assured equipment grounding conductor program. The Advisory Committee received six written comments on the standard and all strongly requested that the committee recommend the retention of the assured equipment grounding conductor program.

After examining the record, evaluating OSHA's presentation, and considering relevant public comment the Advisory Committee concluded that no change, modification, or amendment was warranted with respect to the final rule on ground-fault protection as promulgated in the FEDERAL REGISTER on December 21, 1976. The Advisory Committee accordingly concurred in the judgment of the Assistant Secretary regarding the standards now in effect for ground-fault circuit protection in 29 CFR 1910.309(c) and 29 CFR 1926.400(h) which require either the use of GFCI's or the implementation of an assured equipment grounding conductor program on construction sites.

Since the Advisory Committee on Construction Safety and Health recommended no change in the standard as promulgated by OSHA, and in the

absence of any indication that further public comment would shed any new light on the matter, OSHA concludes that no change in the standard is warranted. Accordingly, the ground-fault protection standard at 29 CFR 1910.309(c) and 29 CFR 1926.400(h), as promulgated on December 21, 1976, is hereby reaffirmed.

(Secs. 6(b) and 8(c), Pub. L. 91-596, 84 Stat. 1593, 1599 (29 U.S.C. 655, 657); sec. 107, Pub. L. 91-54, 83 Stat. 96 (40 U.S.C. 333); Secretary of Labor's Order No. 8-76 (41 FR 25059); 29 CFR Part 1911.)

Signed at Washington, D.C., this 3d day of October 1978.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc. 78-28687 Filed 10-12-78; 8:45 am]

[3710-92-M]

Title 33—Navigation and Navigable Waters

CHAPTER II—CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY

[ER 1110-2-241]

PART 208—FLOOD CONTROL REGULATIONS

Use of Storage Allocated for Flood Control and Navigation Purposes

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Final rule.

SUMMARY: This revision of 33 CFR 208.11 regulations prescribes the policy and procedure for regulating reservoir projects capable of regulation for flood control or navigation and the use of storage allocated for such purposes and provided on the basis of flood control and navigation. The revised regulations are applicable to dam and reservoir projects licensed, maintained, and operated under provisions of the Federal Power Act (41 Stat. 1063 (16 U.S.C. 791(A))), Pub. L. 83-436, and other similar authorizing legislation; as well as to reservoir projects constructed wholly or in part with Federal funds as directed by section 7 of the Flood Control Act of 1944. These regulations are intended to establish an understanding between project owners, operating agencies and the Corps of Engineers with regard to certain activities and responsibilities concerning water control management throughout the Nation in the interest of flood control and navigation. Interested persons were given until November 2, 1977 (42 FR 57141) to submit comments. No written comments were received.

DATES: This regulation is effective on October 15, 1978.

ADDRESSES: HQDA (DAEN-CWE-HY) Washington, D.C. 20314.

FOR FURTHER INFORMATION CONTACT:

Mr. Edgar P. Story, Engineering Division, Civil Works Directorate, Office of the Chief of Engineers, Washington, D.C. 20314 202-693-7330.

SUPPLEMENTARY INFORMATION: This final regulation is essentially the same as the proposed rule (42 FR 53637), however, certain reordering has been done of the reference material presented in § 208.11(b). Specifically, excerpts from sections 4(e), 10(a), and 10(c) of the Federal Power Act have been added for improved clarity. Also Federal Power Commission order No. 540 issued October 31, 1975, and published November 7, 1975 (40 FR 51998), amending § 2.9 of the Commission's general policy and interpretations which prescribed standardized conditions (Forms) for inclusion in preliminary permits and licenses issued under part I of the Federal Power Act has been cited and appropriately excerpted. Reference to and citation from article 33 of Federal Power Commission license No. 2009 have been deleted in lieu thereof.

In addition to the proposed action, certain project names and pertinent data are added to and deleted from the list of projects shown in § 208.11(e), list of projects (42 FR 53637). The following projects are added to the list of projects:

(a) U.S. Army Corps of Engineers, Missouri River Division area: Webster Dam and Lake.

(b) U.S. Army Corps of Engineers, New England Division area:

(i) Bear Swamp Pumped Storage Project.

(ii) Turners Falls Reservoir.

(c) U.S. Army Corps of Engineers, North Pacific Division area:

(i) American Falls Dam and Reservoir.

(ii) Anderson Ranch Dam and Reservoir.

(iii) Arrowrock Dam and Reservoir.

(iv) Brownlee Dam and Reservoir.

(v) Grand Coulee Dam and Franklin D. Roosevelt Lake.

(vi) Hells Canyon Dam and Reservoir.

(vii) Kerr Dam and Flathead Lake.

(viii) Mayfield Dam and Reservoir.

(ix) Mossyrock Dam and Davisson Lake.

(x) Oxbow Dam and Reservoir.

(xi) Priest Rapids Dam and Reservoir.

(xii) Ririe Dam and Reservoir.

(xiii) Rocky Reach Dam and Lake Entiat.

(xiv) Ross Dam and Reservoir.

(xv) Upper Baker Dam and Baker Lake.

(xvi) Wanapum Dam and Reservoir.

(xvii) Wells Dam and Lake Pateros.

(d) U.S. Army Corps of Engineers, South Atlantic Division area: Lewis M. Smith Dam and Reservoir.

(e) U.S. Army Corps of Engineers, South Pacific Division area:

(i) Indian Valley Dam and Reservoir.

(ii) Lemon Dam and Reservoir.

(iii) Navajo Dam and Reservoir.

(iv) Paoina Dam and Reservoir.

(v) Vallecito Dam and Reservoir.

The following projects are deleted from the list of projects:

(a) U.S. Army Corps of Engineers, South Altantic Division area: H. Neely Henry Dam and Reservoir.

(b) U.S. Army Corps of Engineers, South Pacific Division area:

(i) Causey Dam and Reservoir.

(ii) Devil Creek Dam and Reservoir.

NOTE.—The Chief of Engineers has determined that this rule does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107 (Statutory Authority Pub. L. 90-483).

Dated: October 10, 1978.

CHARLES I. MCGINNIS,
Major General, USA,
Director of Civil Works.

Section 208.11 is revised to read as follows:

§ 208.11 Regulations for use of storage allocated for flood control or navigation and/or project operation at reservoirs subject to prescription of rules and regulations by the Secretary of the Army in the interest of flood control and navigation.

(a) *Purpose.* This regulation prescribes the responsibilities and general procedures for regulating reservoir projects capable of regulation for flood control or navigation and the use of storage allocated for such purposes and provided on the basis of flood control and navigation, except projects owned and operated by the Corps of Engineers; the International Boundary and Water Commission, United States and Mexico; and those under the jurisdiction of the International Joint Commission, United States, and Canada, and the Columbia River Treaty. The intent of this regulation is to establish an understanding between project owners, operating agencies, and the Corps of Engineers.

(b) *Responsibilities.* The basic responsibilities of the Corps of Engineers regarding project operation are set out in the cited authority and described in the following paragraphs:

(1) Section 7 of the Flood Control Act of 1944 (58 Stat. 890, 33 U.S.C. 709) directs the Secretary of the Army to prescribe regulations for flood control and navigation in the following manner:

Hereafter, it shall be the duty of the Secretary of War to prescribe regulations for the use of storage allocated for flood control or navigation at all reservoirs constructed wholly or in part with Federal funds provided on the basis of such purposes, and the operation of any such project shall be in accordance with such regulations: *Provided*, That this section shall not apply to the Tennessee Valley Authority, except that in case of danger from floods on the lower Ohio and Mississippi Rivers the Tennessee Valley Authority is directed to regulate the release of water from the Tennessee River into the Ohio River in accordance with such instructions as may be issued by the War Department.

(2) Federal Energy Regulatory Commission (formerly Federal Power Commission (FPC)) licenses.

(i) Responsibilities of the Secretary of the Army and/or the Chief of Engineers in Federal Energy Regulatory Commission (FERC) licensing actions are set out in the Federal Power Act. Pertinent sections of that Act are cited herein. The Commission may also stipulate, as part of license conditions, that the licensee enter into an agreement with the Department of the Army providing for operation of the project during flood times, in accordance with rules and regulations prescribed by the Secretary of the Army.

(A) Section 4(e) of the Federal Power Act requires approval by the Chief of Engineers and the Secretary of the Army of plans of dams or other structures affecting the navigable capacity of any navigable waters of the United States, prior to issuance of a license by the Commission as follows:

The Commission is hereby authorized and empowered to issue licenses to citizens * * * for the purpose of constructing, operating, and maintaining dams, water conduits, reservoirs, powerhouses, transmission lines, or other project works necessary or convenient for the development and improvement of navigation and for the development, transmission, and utilization of power across, along, from or in any of the streams or other bodies of water over which Congress has jurisdiction * * * *Provided further*, That no license affecting the navigable capacity of any navigable waters of the United States shall be issued until the plans of the dam or other structures affecting navigation have been approved by the Chief of Engineers and the Secretary of the Army.

(B) Sections 10(a) and 10(c) of the Federal Power Act specify conditions of project licenses including the following:

(1) Section 10(a). That the project adopted * * * shall be such as in the judgment of the Commission will be best adapted to a comprehensive plan for improving or developing a waterway or waterways for the use of benefit of interstate or foreign commerce, for the improvement and utilization of waterpower development, and for other beneficial public use * * *.

(2) Section 10(c). That the licensee shall * * * so maintain and operate said works as not to impair navigation, and shall conform to such rules and regulations as the Commisssion may from time to time prescribe for the protection of life, health, and property.* * *

(C) Section 18 of the Federal Power Act directs the operation of any navigation facilities built under the provision of that act, be controlled by rules and regulations prescribed by the Secretary of the Army as follows:

The operation of any navigation facilities which may be constructed as part of or in connection with any dam or diversion structure built under the provisions of this Act, whether at the expense of a licensee hereunder or of the United States, shall at all times be controlled by such reasonable rules and regulations in the interest of navigation; including the control of the pool caused by such dam or diversion structure as may be made from time to time by the Secretary of the Army, * * *

(ii) Federal Power Commission order No. 540 issued October 31, 1975, and published November 7,1975 (40 FR 51998), amending section 2.9 of the Commission's general policy and interpretations prescribed standardized conditions (forms) for inclusion in preliminary permits and licenses issued under part I of the Federal Power Act. As an example, article 12 of standard form L-3, titled: "Terms and Conditions of License for Constructed Major Projects Affecting Navigable Waters of the United States," sets out the Commission's interpretation of appropriate sections of the Act, which deal with navigation aspects, and attendant responsibilities of the Secretary of the Army in licensing actions as follows:

The United States specifically retains and safeguards the right to use water in such amount, to be determined by the Secretary of the Army, as may be necessary for the purposes of navigation on the navigable waterway affected; and the operation of the Licensee, so far as they affect the use, storage and discharge from storage of waters affected by the license, shall at all times be controlled by such reasonable rules and regulations as the Secretary of the Army may prescribe in the interest of navigation, and as the Commission may prescribe for the protection of life, health, and property, * * *, and the Licensee shall release water from the project reservoir at such rate * * *, as the Secretary of the Army may prescribe in the interest of navigation, or as the Commission may prescribe for the other purposes hereinbefore mentioned.

(3) Section 9 of Public Law 436, 83d Congress (68 Stat. 303) provides for the development of the Coosa River, Ala. and Ga., and directs the Secretary of the Army to prescribe rules and regulations for project operation in the interest of flood control and navigation as follows:

The operation and maintenance of the dams shall be subject to reasonable rules and regulations of the Secretary of the Army in the interest of flood control and navigation.

NOTE.—This Regulation will also be applicable to dam and reservoir projects operated under provisions of future legislative acts wherein the Secretary of the Army is directed to prescribe rules and regulations in the interest of flood control and navigation. The Chief of Engineers, U.S. Army Corps of Engineers, is designated the duly authorized representative of the Secretary of the Army to exercise the authority set out in the congressional acts. This regulation will normally be implemented by letters of understanding between the Corps of Engineers and project owner and will incorporate the provisions of such letters of understanding prior to the time construction renders the project capable of significant impoundment of water. A water control agreement signed by both parties will follow when deliberate impoundment first begins or at such time as the responsibilities of any corps-owned projects may be transferred to another entity. Promulgation of this regulation for a given project will occur at such time as the name of the project appears in the FEDERAL REGISTER in accordance with the requirements of § 208.11(d)(11). When agreement on a water control plan cannot be reached between the corps and the project owner after coordination with all interested parties, the project name will be entered in the FEDERAL REGISTER and the Corps of Engineers plan will be the officials water control plan until such time as differences can be resolved.

(c) *Scope and terminology.* This regulation applies to Federal authorized flood control and/or navigation storage projects, and to non-Federal projects which require the Secretary of the Army to prescribe regulations as a condition of the license, permit or legislation, during the planning, design and construction phases, and throughout the life of the project. In compliance with the authority cited above, this regulation defines certain activities and responsibilities concerning water control management throughout the Nation in the interest of flood control and navigation. In carrying out the conditions of this regulation, the owner and/or operating agency will comply with applicable provisions of Pub. L. 85-624, the Fish and Wildlife Coordination Act of 1958, and Pub. L. 92-500, the Federal Water Pollution Control Act Amendments of 1972. This regulation does not apply to local flood protection works governed by § 208.10, or to navigation facilities and associated structures which are otherwise covered by part 207 (Navigation Regulations) of title 33 of the code. Small reservoirs, containing less than 12,500 acre-feet of flood control or navigation storage, may be excluded from this regulation and covered under § 208.10, unless specifically required by law or conditions of the license or permit.

(1) The terms "reservoir" and "project" as used herein include all water resource impoundment projects constructed or modified, including natural lakes, that are subject to this regulation.

(2) The term "project owner" refers to the entity responsible for maintenance, physical operation, and safety of the project, and for carrying out the water control plan in the interest of flood control and/or navigation as prescribed by the Corps of Engineers. Special arrangements may be made by the project owner for "operating agencies" to perform these tasks.

(3) The term "letter of understanding" as used herein includes statements which consummate this regulation for any given project and define the general provisions or conditions of the local sponsor, or owner, cooperation agreed to in the authorizing legislative document, and the requirements for compliance with section 7 of the 1944 Flood Control Act, the Federal Power Act or other special congressional act. This information will be specified in the water control plan and manual. The letter of understanding will be signed by a duly authorized representative of the Chief of Engineers and the project owner. A "field working agreement" may be substituted for a letter of understanding, provided that the specified minimum requirements of the latter, as stated above, are met.

(4) The term "water control agreement" refers to a compliation of water control criteria, guidelines, diagrams, release schedules, rule curves and specifications that basically govern the use of reservoir storage space allocated for flood control or navigation and/or release functions of a water control project for these purposes. In general, they indicate controlling or limiting rates of discharge and storage space required for flood control and/or navigation, based on the runoff potential during various seasons of the year.

(5) For the purpose of this regulation, the term "water control plan" is limited to the plan of regulation for a water resources project in the interest of flood control and/or navigation. The water control plan must conform with proposed allocations of storage capacity and downstream conditions or other requirements to meet all functional objectives of the particular project, acting separately or in combination with other projects in a system.

(6) The term "real-time" denotes the processing of current information or data in a sufficiently timely manner to influence a physicial response in the system being monitored and controlled. As used herein the term connotes * * * the analyses for and execution of water control decisions for both minor and major flood events and for navigation, based on prevailing hydrometeorological and other conditions and constraints, to achieve efficient management of water resource systems.

(d) *Procedures.* (1) *Conditions during project formulation.* During the planning and design phases, the project owner should consult with the Corps of Engineers regarding the quantity and value of space to reserve in the reservoir for flood control and/or navigation purposes, and for utilization of the space, and other requirements of the license, permit or conditions of the law. Relevant matters that bear upon flood control and navigation accomplishment include: runoff potential, reservoir discharge capability, downstream channel characteristics, hydrometeorological data collection, flood hazard, flood damage charateristics, real estate acquisition for flowage requirements (fee and easement), and resources required to carry out the water control plan. Advice may also be sought on determination of and regulation for the probable maximum or other design flood under consideration by the project owner to establish the quantity of surcharge storage space, and freeboard elevation of top of dam or embankment for safety of the project.

(2) *Corps of Engineers involvement.* If the project owner is responsible for real-time implemenetation of the water control plan, consultation and assistance will be provided by the Corps of Engineers when appropriate and to the extent possible. During any emergency that affects flood control and/or navigation, the Corps of Engineers may temporarily prescribe regulation of flood control or navigation storage space on a day-to-day (real-time) basis without request of the project owner. Appropriate consideration will be given for other authorized project functions. Upon refusal of the project owner to comply with regulations prescribed by the Corps of Engineers, a letter will be sent to the project owner by the Chief of Engineers or his duly authorized representative describing the reason for the regulations prescribed, events that have transpired, and notification that the project owner is in violation of the Code of Federal Regulations. Should an impasse arise, in that the project owner or the designated operating entity persists in noncompliance with regulations prescribed by the Corps of Engineers, measures may be taken to assure compliance.

(3) *Corps of Engineers implementation of real-time water control decisions.* The Corps of Engineers may prescribe the continuing regulation of flood control storage space for any project subject to this regulation on a day-to-day (real-time) basis. When this is the case, consultation and assistance from the project owner to the extent possible will be expected. Special requests by the project owner, or appropriate operating entity, are preferred before the Corps of Engineers offers advice on real-time regulation during surcharge storage utilization.

(4) *Water control plan and manual.* Prior to project completion, water control managers from the Corps of Engineers will visit the project and the area served by the project to become familiar with the water control facilities, and to insure sound formulation of the water control plan. The formal plan of regulation for flood control and/or navigation, referred to herein as the water control plan, will be developed and documented in a water control manual prepared by the Corps of Engineers. Development of the manual will be coordinated with the project owner to obtain the necessary pertinent information, and to insure compatibility with other project purposes and with surcharge regulation. Major topics in the manual will include: Authorization and description of the project, hydrometeorology, data collection and communication networks, hydrologic forecasting, the water control plan, and water resource management functions, including responsibilities and coordination for water control decisionmaking. Special instructions to the dam tender or reservoir manager on data collection, reporting to higher Federal authority, and on procedures to be followed in the event of a communication outage under emergency conditions, will be prepared as an exhibit in the manual. Other exhibits will include copies of this regulation, letters of understanding consummating this regulation, and the water control agreements. After approval by the Chief of Engineers or his duly authorized representative, the manual will be furnished the project owner.

(5) *Water control agreement.* (i) A water control diagram (graphical) will be prepared by the Corps of Engineers for each project having variable space reservation for flood control and/or navigation during the year; e.g., variable seasonal storage, joint-use space, or other rule curve designation. Reservoir inflow parameters will be included on the diagrams when appropriate. Concise notes will be included on the diagrams prescribing the use of storage space in terms of release schedules, runoff, nondamaging or other controlling flow rates downstream of the damsite, and other major factors as appropriate. A water control release schedule will be prepared in tabular form for projects that do not have variable space reservation for flood control and/or navigation. The water control diagram or release schedule will be signed by a duly authorized representative of the Chief of Engineers, the project owner, and the designated operating agency, and will be used as the basis for carrying out this

regulation. Each diagram or schedule will contain a reference to this regulation.

(ii) When deemed necessary by the Corps of Engineers, information given on the water control diagram or release schedule will be supplemented by appropriate text to assure mutual understanding on certain details or other important aspects of the water control plan not covered in this regulation, on the water control diagram or in the release schedule. This material will include clarification of any aspects that might otherwise result in unsatisfactory project performance in the interest of flood contol and/or navigation. Supplementation of the agreement will be necessary for each project where the Corps of Engineers exercises the discretionary authority to prescribe the flood control regulation on a day-to-day (real-time) basis. The agreement will include delegation of the responsibility. The document should also cite, as appropriate, section 7 of the 1944 Flood Control Act, the Federal Power Act and/or other congressional legislation authorizing construction an/or directing operation of the project.

(iii) All flood control regulations published in the FEDERAL REGISTER under this section (part 208) of the code prior to the date of this publication which are listed in paragraph 208.11(e) are hereby superseded.

(iv) Nothing in this regulation prohibits the promulgation of specific regulations for a project in compliance with the authorizing acts, when agreement on acceptable regulations cannot be reached between the Corps of Engineers and the owner.

(6) *Hydrometeorological instrumentation.* The project owner will provide instrumentation in the vicinity of the damsite and will provide communication equipment necessary to record and transmit hydrometeorological and reservoir data to all appropriate Federal authorities on a real-time basis unless there are extenuating circumstances or are otherwise provided for as a condition of the license or permit. For those projects where the owner retains responsibility for real-time implementation of the water control plan, the owner will also provide or arrange for the measurement and reporting of hydrometeorological parameters required within and adjacent to the watershed and downstream of the damsite, sufficient to regulate the project for flood control and/or navigation in an efficient manner. When data collection stations outside the immediate vicinity of the damsite are required, and funds for installation, observation, and maintenance are not available from other sources, the Corps of Engineers may agree to share the costs for such stations with the project owner. Availability of funds and urgency of data needs are factors which will be considered in reaching decisions on cost sharing.

(7) *Project safety.* The project owner is responsible for the safety of the dam and appurtenant facilities and for regulation of the project during surcharge storage utilization. Emphasis upon the safety of the dam is especially important in the event surcharge storage is utilized, which results when the total storage space reserved for flood control is exceeded. Any assistance provided by the Corps of Engineers concerning surcharge regulation is to be utilized at the discretion of the project owner, and does not relieve the owner of the responsibility for safety of the project.

(8) *Notification of the general public.* The Corps of Engineers and other interested Federal and State agencies, and the project owner will jointly sponsor public involvement activities, as appropriate, to fully apprise the general public of the water control plan. Public meetings or other effective means of notification and involvement will be held, with the initial meeting being conducted as early as practicable but not later than the time the project first becomes operational. Notice of the initial public meeting shall be published once a week for 3 consecutive weeks in one or more newspapers of general circulation published in each county covered by the water control plan. Such notice shall also be used when appropriate to inform the public of modifications in the water control plan. If no newspaper is published in a county, the notice shall be published in one or more newspapers of general circulation within that county. For the purposes of this section a newspaper is one qualified to publish public notices under applicable State law. Notice shall be given in the event significant problems are anticipated or experienced that will prevent carrying out the approved water control plan or in the event that an extreme water condition is expected that could produce severe damage to property or loss of life. The means for conveying this information shall be commensurate with the urgency of the situation. The water control manual will be made available for examination by the general public upon request at the appropriate office of the Corps of Engineers, project owner or designated operating agency.

(9) *Other generalized requirements for flood control and navigation.* (i) Storage space in the reservoirs allocated for flood control and navigation purposes shall be kept available for those purposes in accordance with the water control agreement, and the plan of regulation in the water control manual.

(ii) Any water impounded in the flood control space defined by the water control agreement shall be evacuated as rapidly as can be safely accomplished without causing downstream flows to exceed the controlling rates; i.e., releases from reservoirs shall be restricted insofar as practicable to quantities which, in conjunction with uncontrolled runoff downstream of the dam, will not cause water levels to exceed the controlling stages currently in force. Although conflicts may arise with other purposes, such as hydropower, the plan or regulation may require releases to be completely curtailed in the interest of flood control or safety of the project.

(iii) Nothing in the plan of regulation for flood control shall be construed to require or allow dangerously rapid changes in magnitudes of releases. Releases will be made in a manner consistent with requirements for protecting the dam and reservoir from major damage during passage of the maximum design flood for the project.

(iv) The project owner shall monitor current reservoir and hydro- meteorological conditions in and adjacent to the watershed and downstream of the damsite, as necessary. This and any other pertinent information shall be reported to the Corps of Engineers on a timely basis, in accordance with standing instructions to the damtender or other means requested by the Corps of Engineers.

(v) In all cases where the project owner retains responsibility for real-time implementation of the water control plan, he shall make current determinations of: Reservoir inflow, flood control storage utilized, and scheduled releases. He shall also determine storage space and releases required to comply with the water control plan prescribed by the Corps of Engineers. The owner shall report this information on a timely basis as requested by the Corps of Engineers.

(vi) The water control plan is subject to temporary modification by the Corps of Engineers if found necessary in time of emergency. Requests for and action on such modifications may be made by the fastest means of communication available. The action taken shall be confirmed in writing the same day to the project owner and shall include justification for the action.

(vii) The project owner may temporarily deviate from the water control plan in the event an immediate short-term departure is deemed necessary for emergency reasons to protect the safety of the dam, or to avoid other serious hazards. Such actions shall be immediately reported by the fastest

means of communication available. Actions shall be confirmed in writing the same day to the Corps of Engineers and shall include justification for the action. Continuation of the deviation will require the express approval of the Chief of Engineers, or his duly authorized representative.

(viii) Advance approval of the Chief of Engineers, or his duly authorized representative, is required prior to any deviation from the plan of regulation prescribed or approved by the Corps of Engineers in the interest of flood control and/or navigation, except in emergency situations provided for in paragraph (d)(9)(vii) of this section. When conditions appear to warrant a prolonged deviation from the approved plan, the project owner and the Corps of Engineers will jointly investigate and evaluate the proposed deviation to insure that the overall integrity of the plan would not be unduly compromised. Approval of prolonged deviations will not be granted unless such investigations and evaluations have been conducted to the extent deemed necessary by the Chief of Engineers, or his designated representatives, to fully substantiate the deviation.

(10) *Revisions.* The water control plan and all associated documents will be revised by the Corps of Engineers, as necessary, to reflect changed conditions that come to bear upon flood control and navigation, e.g., reallocation of reservoir storage space due to sedimentation or transfer of storage space to a neighboring project. Revision of the water control plan, water control agreement, water control diagram, or release schedule requires approval of the Chief of Engineers or his duly authorized representative. Each such revision shall be effective upon the date specified in the approval. The original (signed document) water control agreement shall be kept on file in the Office, Chief of Engineers, Department of the Army, Washington, D.C. Copies of the agreement shall be kept on file and may be obtained from the office of the project owner, or from the office of the appropriate Division Engineer, Corps of Engineers.

(11) *Federal Register.* The following information for each project subject to section 7 of the 1944 Flood Control Act and other applicable congressional acts shall be published in the FEDERAL REGISTER prior to the time the projects becomes operational and prior to any significant impoundment before project completion or * * * at such time as the responsibility for physical operation and maintenance of the Corps of Engineers owned projects is transferred to another entity: (i) Reservoir, dam, and lake names, (ii) stream, county, and State corresponding to the damsite location, (iii) the maximum current storage space in acre-feet to be reserved exclusively for flood control and/or navigation purposes, or any multiple-use space (intermingled) when flood control or navigation is one of the purposes, with corresponding elevations in feet above mean sea level, and area in acres, at the upper and lower limits of said space, (iv) the name of the project owner, and (v) congressional legislation authorizing the project for Federal participation.

(e) *List of projects.* The following tables, "Pertinent Project Data—Section 208.11 Regulation," show the pertinent data for projects which are subject to this regulation.

(Sec. 7, Pub. L. 78-534, 58 Stat. 890 (33 U.S.C. 709); the Federal Power Act, 41 Stat. 1063 (16 U.S.C. 791(A)); and Sec. 9, Pub. L. 83-436, 68 Stat. 303.)

[FR Doc. 78-29100 Filed 10-12-78; 8:45 am]

PERTINENT PROJECT DATA - SECTION 208.11 REGULATIONS

PROJECT NAME	STREAM	COUNTY & STATE	EXCLUSIVE					MULTIPLE-USE					PROJECT OWNER	AUTH. LEGIS.
			FLOOD CONTROL/NAVIGATION					FLOOD CONTROL/NAVIGATION						
			STORAGE	ELEV. LIMITS		AREA		STORAGE	ELEV. LIMITS		AREA			
			1000 ac-ft	feet m.s.l. UPPER	LOWER	acres UPPER	LOWER	1000 ac-ft	feet m.s.l. UPPER	LOWER	acres UPPER	LOWER		
Alpine Dam	Keith Creek	Winnebago,IL	0.585	796.0	764.0	51.88	0	-	-	-	-	-	City of Rockford,IL	PWA Proj.
Agency Valley Dam & Res	N. Fork Malheur Riv.	Malheur,OR	-	-	-	-	-	60.0	3340.0	3263.21	1,900	0	Bureau of Reclamation	PL 68-292
American Falls Dam & Reservoir	Snake River	Power,ID	-	-	-	-	-	1,700	4343.2	4295.6	56,100	0	Bureau of Reclamation	FPC NO. 2259
Anderson Ranch Dam & Reservoir	S.Fk. Boise River	Elmore,ID	-	-	-	-	-	423.2	4196.0	4043.0	4,740	1,150	Bureau of Reclamation	Rec. Proj. Act of 1939 (53 Stat. 1187)
Arrowrock Dam & Reservoir	Boise River	Elmore,ID	-	-	-	-	-	286.6	3216.0	2967.0	3,100	200	Bureau of Reclamation	Rec.Act of 17 Jun 1902 (32 Stat. 388)
Bear Creek Dam	Bear Creek	Marion & Ralls, MO	8.7	546.5	520.0	540	0	-	-	-	-	-	City of Hannibal,MO	PL 83-780
Bear Swamp Pumped Storage Proj.	Trib. of Deerfield River	Franklin, MA	-	-	-	-	-	(No specific FC/Nav. Storage Allocation)					New Eng Power CO.	Fed. Power Act.
Big Dry Creek and Diversion	Big Dry Creek and Dog Creek	Fresno,CA	16.25	425.0	393.0	1,530	0	-	-	-	-	-	Reclamation Board CA	PL 77-228
Bonny Dam & Reservoir	S. Fork Republican River	Yuma, CO	128.8	3710.0	3672.0	5,036	2,042	-	-	-	-	-	Bureau of Reclamation	PL 78-534
Boysen Dam & Reservoir	Wind River	Fremont, WY	146.0	4732.0	4725.0	22,100	19,560	146.1	4725.0	4717.0	19,560	16,955	Bureau of Reclamation	PL 78-534
Brownlee Dam & Reservoir	Snake River	Baker,OR; Washington,ID	-	-	-	-	-	980.3	2077.0	1976.0	13,840	6,650	Idaho Power Company	FPC No. 1971-C
Bully Creek Dam & Reservoir	Bully Creek	Malheur,OR	-	-	-	-	-	31.65	2523.0	2456.8	1,082	140	Bureau of Reclamation	PL 86-248
Camanche Dam & Reservoir	Mokelumne River	San Joaquin, CA	-	-	-	-	-	200.0	235.5	205.1	7,600	5,507	East Bay Mun Util Dist. Oakland,CA	PL 86-645
Canyon Ferry Dam & Lake	Missouri Riv.	Lewis & Clark, MT	104.3	3800.0	3797.0	35,181	34,435	799.1	3797.0	3770.0	34,435	24,126	Bureau of Reclamation	PL 78-534

PERTINENT PROJECT DATA - SECTION 208.11 REGULATIONS

PROJECT NAME	STREAM	COUNTY & STATE	EXCLUSIVE FLOOD CONTROL/NAVIGATION STORAGE 1000 ac-ft	EXCLUSIVE FLOOD CONTROL/NAVIGATION ELEV. LIMITS feet m.s.l. UPPER	EXCLUSIVE FLOOD CONTROL/NAVIGATION ELEV. LIMITS feet m.s.l. LOWER	EXCLUSIVE FLOOD CONTROL/NAVIGATION AREA acres UPPER	EXCLUSIVE FLOOD CONTROL/NAVIGATION AREA acres LOWER	MULTIPLE-USE FLOOD CONTROL/NAVIGATION STORAGE 1000 ac-ft	MULTIPLE-USE FLOOD CONTROL/NAVIGATION ELEV. LIMITS feet m.s.l. UPPER	MULTIPLE-USE FLOOD CONTROL/NAVIGATION ELEV. LIMITS feet m.s.l. LOWER	MULTIPLE-USE FLOOD CONTROL/NAVIGATION AREA acres UPPER	MULTIPLE-USE FLOOD CONTROL/NAVIGATION AREA acres LOWER	PROJECT OWNER	AUTH. LEGIS.
Cedar Bluff Dam & Reservoir	Smoky Hill River	Trego, KS	191.9	2166.0	2144.0	10,790	6,869	-	-	-	-	-	Bureau of Reclamation	PL 78-534
Clark Canyon Dam & Reservoir	Beaverhead River	Beaverhead, MT	79.1	5560.4	5546.1	5,903	5,160	50.4	5546.1	5535.7	5,160	4,496	Bureau of Reclamation	PL 78-534
Del Valle Dam & Reservoir	Alameda Creek	Alameda, CA	37.0	745.0	703.1	1,060	710	1.0	703.1	702.2	710	700	CA Dept of Water Resources	PL 87-874
East Canyon Dam & Reservoir	East Canyon Creek	Morgan, UT	-	-	-	-	-	48.0	5705.5	5577.0	684	127	Bureau of Reclamation	PL 81-273
Echo Dam and Reservoir	Weber River	Summit, UT	-	-	-	-	-	74.0	5560.0	5450.0	1,455	0	Bureau of Reclamation	PL 81-273
Emigrant Dam & Reservoir	Emigrant Creek	Jackson, OR	39.0	2241.0	2131.5	801	80	-	-	-	-	-	Bureau of Reclamation	PL 83-606
Enders Dam & Reservoir	Frenchman Creek	Chase, NB	30.0	3127.0	3112.3	2,405	1,707	-	-	-	-	-	Bureau of Reclamation	PL 78-534
Folsom Dam & Lake	American River	Sacramento, CA	-	-	-	-	-	400.0	466.0	427.0	11,450	9,040	Bureau of Reclamation	PL 81-356
Friant Dam & Reservoir (Millerton Lake)	San Joaquin River	Fresno, CA	-	-	-	-	-	390.0	578.0	466.3	4,850	2,101	Bureau of Reclamation	PL 75-392 & PL 76-868
Gaston-Roanoke Rapids Dam & Reservoir	Roanoke River	Northampton & Halifax, NC	63.0	203.0	200.0	22,500	20,300	-	-	-	-	-	VA Electric & Power Co.	Fed Power Act
Glen Elder Dam & Waconda Lake	Solomon River	Mitchell, KS	722.3	1488.3	1455.6	3[illegible],682	12,602	-	-	-	-	-	Bureau of Reclamation	PL 78-534 & PL 79-526
Glendo Dam & Reservoir	N. Platte River	Platte, WY	271.9	4653.0	4635.0	17,986	12,365	-	-	-	-	-	Bureau of Reclamation	PL 78-534
Grand Coulee Dam, Franklin D. Roosevelt Lake	Columbia River	Grant & Okanogan, WA	-	-	-	-	-	5185.45	1290.0	1208.0	82,280	45,592	Bureau of Reclamation	PL 89-561 3rd Powerhouse
Heart Butte Dam & Lake Tschida	Heart River	Grant, ND	150.0	2094.5	2064.5	6,625	3,400	-	-	-	-	-	Bureau of Reclamation	PL 78-534

PERTINENT PROJECT DATA - SECTION 208.11 REGULATIONS

PROJECT NAME	STREAM	COUNTY & STATE	EXCLUSIVE FLOOD CONTROL/NAVIGATION STORAGE 1000 ac-ft	ELEV. LIMITS feet m.s.l. UPPER	ELEV. LIMITS feet m.s.l. LOWER	AREA acres UPPER	AREA acres LOWER	MULTIPLE-USE FLOOD CONTROL/NAVIGATION STORAGE 1000 ac-ft	ELEV. LIMITS feet m.s.l. UPPER	ELEV. LIMITS feet m.s.l. LOWER	AREA acres UPPER	AREA acres LOWER	PROJECT OWNER	AUTH. LEGIS.
Hells Canyon Dam & Reservoir	Snake River	Wallowa, OR; Adams, ID	-	-	-	-	-	11.7	1688.0	1683.0	2,380	2,280	Idaho Power Company	FPC No. 1971-A
Hoover Dam & Lake Mead	Colorado River	Clark NV & Mohave, AZ	1500.0	1229.0	1219.6	162,700	156,500	15.853	1219.6	1083.0	156,500	83,500	Bureau of Reclamation	PL 70-642
Hungry Horse Dam & Reservoir	S. Fork Flathead Riv.	Flathead, MT	2982.0	3560.0	3336.0	23,800	5,400	-	-	-	-	-	Bureau of Reclamation	PL 78-329
Indian Valley Dam&Reservoir	N.Fork Cache Creek	Lake, CA	-	-	-	-	-	40.0	1485.0	1474.7	3,975	3,749	Yolo Cty Fl. Cont&WtrCons Dist.	PL 84-984
Jamestown Dam & Reservoir	James River	Stutsman,ND	185.4	1454.0	1432.67	13,206	2,555	6.6	1432.67	1429.8	2,555	2,085	Bureau of Reclamation	PL 78-534
Kerr Dam Flathead Lake	Flathead River	Lake, MT	-	-	-	-	-	1219.0	2893.0	2883.0	125,560	120,000	Montana Power Co.	FPC No. 5
Keyhole Dam & Reservoir	Belle Fourche	Crook, WY	140.2	4111.5	4099.3	13,686	9,394	-	-	-	-	-	Bureau of Reclamation	PL 78-534
Kirwin Dam & Reservoir	N. Fork Solomon River	Phillips,KS	215.1	1757.3	1729.25	10,640	5,073	-	-	-	-	-	Bureau of Reclamation	PL 78-534
Lemon Dam & Reservoir	Florida River	La Plata, Colorado	-	-	-	-	-	39.0	8148	8023	622	62	Bureau of Reclamation	PL 84-485
Lewis M. Smith Dam & Reservoir	Sipsey Fork Black Warrior Riv.	Cullman & Walker,AL	280.6	522.0	510.0	25,700	21,200	-	-	-	-	-	Alabama Power Co.	Fed.Power Act
Little Wood River Dam & Reservoir	Little Wood River	Blain,ID	30.0	5237.3	5127.8	574	0	-	-	-	-	-	Bureau of Reclamation	PL 84-993
Logan Martin Dam & Reservoir	Coosa River	Talladega, AL	245.3	477.0	465.0	26,310	15,260	-	-	-	-	-	Alabama Power Co.	PL 83-436
Los Banos Dam & Detention Res.	Los Banos Creek	Merced,CA	-	-	-	-	-	14.0	353.5	327.8	619	467	Bureau of Reclamation	PL 86-488
Lost Creek Dam & Res.	Lost Creek	Morgan,UT	-	-	-	-	-	20.0	6005.0	5912.0	365	93	Bureau of Reclamation	PL 81-273
Lovewell Dam & Reservoir	White Rock Creek	Jewell,KS	50.5	1595.3	1582.6	5,025	2,986	-	-	-	-	-	Bureau of Reclamation	PL 78-534

PERTINENT PROJECT DATA - SECTION 208.11 REGULATIONS

PROJECT NAME	STREAM	COUNTY & STATE	EXCLUSIVE FLOOD CONTROL/NAVIGATION STORAGE 1000 ac-ft	ELEV. LIMITS feet m.s.l. UPPER	ELEV. LIMITS feet m.s.l. LOWER	AREA acres UPPER	AREA acres LOWER	MULTIPLE-USE FLOOD CONTROL/NAVIGATION STORAGE 1000 ac-ft	ELEV. LIMITS feet m.s.l. UPPER	ELEV. LIMITS feet m.s.l. LOWER	AREA acres UPPER	AREA acres LOWER	PROJECT OWNER	AUTH. LEGIS.
Markham Ferry Dam & Lake Wash E. Hudson	Grand (Neosho) River	Mayes, OK	244.2	636.0	619.0	18,000	10,900	-	-	-	-	-	Grand River Dam Authority	PL 76-476
Mayfield Dam & Reservoir	Cowlitz River	Lewis, WA	-	-	-	-	-	21.4	425.0	415.0	2,070	1,825	City of Tacoma	FPC No. 2016-A
Medicine Creek Dam & Harry Strunk Lake	Medicine Creek	Frontier, NB	52.2	2386.2	2366.1	3,465	1,850	-	-	-	-	-	Bureau of Reclamation	PL 78-534
Mossyrock Dam Davisson Lake	Cowlitz River	Lewis, WA	-	-	-	-	-	1397.0	778.5	621.5	11,800	5,000	City of Tacoma	FPC No. 2016-B
Navajo Dam Reservoir	San Juan River	Rio Arriba & San Juan, NM	-	-	-	-	-	1036.1	6085	5990	15,610	7,400	Bureau of Reclamation	PL 84-485
New Exchequer Dam & Lake McClure	Merced River	Tuolomne, CA	-	-	-	-	-	400.0	867.0	799.7	7,110	4,849	Merced Irrig. District	PL 86-645
Norton Dam & Reservoir	Prairie Dog Creek	Norton, KS	98.8	2331.4	2304.3	5,316	2,181	-	-	-	-	-	Bureau of Reclamation	PL 78-534
Ochoco Dam & Reservoir	Ochoco Creek	Crook, OR	51.4	3136.2	3048.1	1,150	120	-	-	-	-	-	Bureau of Reclamation	PL 84-992
Oroville Dam & Lake	Feather River	Butte, CA	-	-	-	-	-	750.0	900.0	848.5	15,800	13,346	CA Dept of Wtr Resources	PL 85-500
Oxbow Dam & Reservoir	Snake River	Baker, OR; Adams, ID	-	-	-	-	-	5.0	1805.0	1800.0	1,165	1,115	Idaho Power Company	FPC No. 1971-B
Pactola Dam & Reservoir	Rapid Creek	Pennington, SD	43.0	4621.5	4580.2	1,232	860	-	-	-	-	-	Bureau of Reclamation	PL 78-534
Palisades Dam & Reservoir	Snake River	Bonneville, ID	1202.0	5620.0	5452.43	16,100	2,170	-	-	-	-	-	Bureau of Reclamation	PL 81-864
Paoina Dam & Reservoir	Muddy Creek	Gunnison, Colorado	-	-	-	-	-	17.0	6447.5	6373.0	334	120	Bureau of Reclamation	PL 80-117 PL 84-485
Pineview Dam & Reservoir	Odgen River	Weber, UT	-	-	-	-	-	110.0	4900.0	4818.0	2,874	0	Bureau of Reclamation	PL 81-273
Platora Dam & Reservoir	Conejos River	Conejos, CO	6.0	10034.0	10027.5	947	920	540.0	10027.5	994.5	920	0	Bureau of Reclamation	PL 76-640
Priest Rapids Dam & Reservoir	Columbia River	Grant, WA	-	-	-	-	-	44.0	488.0	481.5	7,100	6,500	Grant County PUD No. 2	FPC No. 2114-A
Prineville Dam & Reservoir	Crooked Creek	Crook, OR	153.0	3234.8	3112.0	2,990	120	-	-	-	-	-	Bureau of Reclamation	PL 84-992

PERTINENT PROJECT DATA - SECTION 208.11 REGULATIONS

PROJECT NAME	STREAM	COUNTY & STATE	EXCLUSIVE FLOOD CONTROL/NAVIGATION STORAGE 1000 ac-ft	ELEV. LIMITS feet m.s.l. UPPER	ELEV. LIMITS feet m.s.l. LOWER	AREA acres UPPER	AREA acres LOWER	MULTIPLE-USE FLOOD CONTROL/NAVIGATION STORAGE 1000 ac-ft	ELEV. LIMITS feet m.s.l. UPPER	ELEV. LIMITS feet m.s.l. LOWER	AREA acres UPPER	AREA acres LOWER	PROJECT OWNER	AUTH. LEGIS.
Prosser Creek & Reservoir	Prosser Creek	Nevada, CA	-	-	-	-	-	20.0	5741.2	5703.7	745	334	Bureau of Reclamation	PL 84-858
Red Willow Dam & Hugh Butler Lake	Red Willow Creek	Frontier, NB	48.9	2604.9	2581.8	2,682	1,629	-	-	-	-	-	Bureau of Reclamation	PL 78-534 &PL 85-783
Ririe Dam & Reservoir	Willow Creek Snake River	Bonneville,ID	-	-	-	-	-	90.0	5119.0	5023.0	1,560	360	Bureau of Reclamation	PL 87-874
Rocky Reach Dam Lake Entiat	Columbia River	Chelan, WA	-	-	-	-	-	37.0	707.0	703.0	9,600	0	Chelan Cnty PUD No. 1	FPC No. 2145
Ross Dam & Reservoir	Skagit River	Whatcom, WA	-	-	-	-	-	530.5	1602.5	1475.0	6,000	2,168	City of Seattle	FPC No. 553-C
Savage River Dam & Res.	Savage River	Garrett, MD	-	-	-	-	-	16.028	1468.5	1400.0	366	127	Upper Potomac Riv Commission	PL 79-526
Shadehill Dam & Reservoir	Grand River	Perkins, SD	217.7	2302.0	2272.0	9,900	4,800	-	-	-	-	-	Bureau of Reclamation	PL 78-534
Shasta Dam & Lake	Sacramento River	Shasta, CA	-	-	-	-	-	1300.0	1067.0	1018.6	29,570	23,894	Bureau of Reclamation	PL 75-392 &PL 76-868
Smith Mtn & Leesville Dam & Res.	Roanoke River	Bedford, Campbell & Pittsylvania,VA	-	-	-	-	-	(No Specific FC/Nav. Storage Allocation)					Appalacian Power Co.	Fed.Power Act
Trenton Dam & Reservoir	Republican River	Hitchcock,NB	133.8	2773.0	2752.0	7,975	4,974	-	-	-	-	-	Bureau of Reclamation	PL 78-534
Turner Falls Res (Includes Northfield Mtn Pumped Storage Project)	Connecticut River (Briggs Brook)	Franklin, MA	-	-	-	-	-	(No Specific FC/Nav. Storage Allocation)					Northeast Utilities Service Co. Hartford, CT	Fed. Power Act
Twitchell Dam & Reservoir	Cuyama River	Santa Barbara, CA	89.0	651.5	623.0	3,690	2,650	-	-	-	-	-	Bureau of Reclamation	PL 83-774
Upper Baker Dam Baker Lake	Baker River	Whatcom, WA	-	-	-	-	-	220.63	724.0	655.0	4,890	0	Puget Sound Power & Light Co.	Sec. 201 PL 89-298 FPC No. - 2150-B

PERTINENT PROJECT DATA - SECTION 208.11 REGULATIONS

PROJECT NAME	STREAM	COUNTY & STATE	EXCLUSIVE FLOOD CONTROL/NAVIGATION STORAGE 1000 ac-ft	EXCLUSIVE FLOOD CONTROL/NAVIGATION ELEV. LIMITS feet m.s.l. UPPER	EXCLUSIVE FLOOD CONTROL/NAVIGATION ELEV. LIMITS feet m.s.l. LOWER	EXCLUSIVE FLOOD CONTROL/NAVIGATION AREA acres UPPER	EXCLUSIVE FLOOD CONTROL/NAVIGATION AREA acres LOWER	MULTIPLE-USE FLOOD CONTROL/NAVIGATION STORAGE 1000 ac-ft	MULTIPLE-USE FLOOD CONTROL/NAVIGATION ELEV. LIMITS feet m.s.l. UPPER	MULTIPLE-USE FLOOD CONTROL/NAVIGATION ELEV. LIMITS feet m.s.l. LOWER	MULTIPLE-USE FLOOD CONTROL/NAVIGATION AREA acres UPPER	MULTIPLE-USE FLOOD CONTROL/NAVIGATION AREA acres LOWER	PROJECT OWNER	AUTH. LEGIS.
Vallecito Dam Reservoir	Los Pinos River	La Plata, Colorado	-	-	-	-	-	115.4	7665	7600	2,723	693	Bureau of Reclamation	PL 61-288 PL 68-292
Wanapum Dam & Reservoir	Columbia River	Grant, WA	-	-	-	-	-	151.6	571.5	560.0	14,400	9,600	Grant County PUD No. 2	FPC No. 2114-B
Wanship Dam & Rockport	Weber River	Summit, UT	-	-	-	-	-	61.0	6037.0	5930.0	1,077	121	Bureau of Reclamation	PL 81-273
Warm Springs Dam & Res.	Middle Fork Malheur Riv.	Malheur, OR	-	-	-	-	-	191.0	3406.0	3327.0	4,600	90	50% Vale Irr. Dist & 50% Bu. of Rec.	-
Waterbury Dam & Reservoir	Little River	Washington, VT	27.7	617.5	592.0	1,330	890	-	-	-	-	-	State of Vermont	PL 78-534
Weiss Dam & Reservoir	Coosa River	Cherokee, AL	397.0	574.0	564.0	50,000	30,200	-	-	-	-	-	Alabama Power Co.	PL 83-436
Wells Dam & Lake Pateros	Columbia River	Douglas, WA	-	-	-	-	-	74.0	779.0	771.0	10,700	7,700	Douglas Cnty PUD No. 1	FPC No. 2149
Webster Dam & Reservoir	S. Fork Solomon Riv.	Rooks, KS	183.4	1923.7	1892.45	8,480	3,766	-	-	-	-	-	Bureau of Reclamation	PL 534-78-2
Yellowtail Dam & Bighorn Lake	Bighorn River	Big Horn, MT	259.0	3657.0	3640.0	17,298	12,685	250.0	3640.0	3614.0	12,685	7,410	Bureau of Reclamation	PL 78-534

[7527-01-M]

Title 45—Public Welfare

CHAPTER XVII—NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

PART 1705—PRIVACY REGULATIONS

Implementation

AGENCY: National Commission on Libraries and Information Science.

ACTION: Final rule.

SUMMARY: The Commission adopts regulations implementing the Privacy Act of 1974. The regulations set forth the procedures under which the public may determine what systems of records are maintained by the Commission and procedures on how access may be gained for purpose of review, amendment and/or correction of those records.

DATES: Effective October 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Alphonse F. Trezza, Executive Director, National Commission on Libraries and Information Science, 1717 K Street NW., Suite 601, Washington, D.C. 20036, 202-653-6252.

SUPPLEMENTARY INFORMATION: On August 7, 1978 (45 FR 34805) the Commission published its proposed regulations implementing the Privacy Act of 1974. No comments were received. The Commission adopts the proposed regulations as published.

ALPHONSE F. TREZZA,
Executive Director.

Part 1705 is added to Title 45 of the Code of Federal Regulations.

Sec.
1705.1 Purpose and scope.
1705.2 Definitions.
1705.3 Procedures for requests pertaining to individual records in the D/AC File.
1705.4 Times, places, and requirements for identification of individuals making requests.
1705.5 Disclosure of requested information to individuals.
1705.6 Request for correction or amendment to the record.
1705.7 Agency review of request for correction or amendment of the record.
1705.8 Appeal of an initial adverse agency determination on correction or amendment of the record.
1705.9 Disclosure of record to a person other than the individual to whom the record pertains.
1705.10 Fees.
1705.11 Penalties.
1705.12 Exemptions.
AUTHORITY: 5 U.S.C. 552a.

§ 1705.1 Purpose and scope.

These procedures provide the means by which individuals may safeguard their privacy by obtaining access to, and requesting amendments or corrections in, information, if any, about these individuals which is contained in the White House Conference Delegate/Alternate Certification File (D/AC File), which is under the control of the National Commission on Libraries and Information Science (hereafter, the Commission).

§ 1705.2 Definitions.

For the purpose of these procedures:

(a) The term "individual" means a citizen of the United States or an alien lawfully admitted for permanent residence;

(b) The term "maintain" includes maintain, collect, use or disseminate;

(c) The term "record" means any item or set of items about an individual that is maintained by the Commission in either hard copy or computerized form, including name, residence and other information obtained from the form, "Certification of State/Territorial Delegates/Alternates to the White House Conference on Library and Information Services."

(d) The term "routine use" means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected.

§ 1705.3 Procedures for requests pertaining to individual records in the D/AC File.

(a) An individual who wishes to know whether the D/AC File contains a record pertaining to him or her shall submit a written request to that effect to the System Manager at the Commission. The System Manager shall, within 10 days of receipt of such submission, inform the individual whether the D/AC File contains such a record.

(b) An individual who desires access to any identified record shall file a request therefor addressed to the System Manager indicating whether such individual intends to appear in person at the Commission's offices or whether he or she desires to receive a copy of any identified record through the mail.

§ 1705.4 Times, places, and requirements for identification of individuals making requests.

(a) An individual who, in accord with § 1705.3(b) indicated that he or she would appear personally shall do so at the Commission's offices, 1717 K Street NW., Suite 601, Washington, D.C., between the hours of 8:30 a.m. and 4 p.m. Monday through Friday (legal holidays excluded) and present either: (1) The response from the System Manager indicating that such a record exists; or (2) a copy of the executed certification form, as well as another suitable form of identification, such as a valid drivers license or equivalent.

(b) In response to a request for mail delivery, the Commission will mail only to the home address appearing in the D/AC File a copy of the record for that individual within 10 working days.

§ 1705.5 Disclosure of requested information to individuals.

Upon verification of identity, the System Manager shall disclose to the individual (a) the information contained in the record which pertains to that individual; and (b) the accounting of disclosures of the record, if any, required by 5 U.S.C. 552a(c).

§ 1705.6 Request for correction or amendment to the record.

If a person wishes a change to be made in the record, he or she should follow the procedures for making changes which are included in the instructions accompanying the certification form by which the information was obtained. Copies of these instructions will be mailed to any delegate/alternate upon request.

§ 1705.7 Agency review of request for correction or amendment of the record.

Within 10 days of the receipt of the request to correct or to amend the record, the System Manager will acknowledge in writing such receipt and promptly either: (a) Make any correction or amendment of any portion thereof which the individual believes is not accurate, relevant, timely, or complete and inform the individual of same; or (b) inform the individual of his or her refusal to correct or amend the record in accordance with the request, the reason for the refusal, and the procedures established by the Commission for the individual to request a review of that refusal.

§ 1705.8 Appeal of an initial adverse agency determination on correction or amendment of the record.

An individual who disagrees with the refusal of the System Manager to correct or to amend his or her record may submit a request for review of such refusal to the Chairman of the Commission, 1717 K Street NW., Suite 601, Washington, D.C. 20036. The Chairman will, not later than 30 days from the date on which the individual requests such review, complete such review and make a final determination

unless, for good cause shown, the Chairman extends such 30-day period. If, after his or her review, the Chairman also refuses to correct or to amend the record in accordance with the request, the individual may file with the Commission a concise statement setting forth the reasons for his or her disagreement with the refusal of the Commission and may seek judicial review of the Chairman's determination under 5 U.S.C. 552a(g)(1)(A).

§ 1705.9 Disclosure of record to a person other than the individual to whom the record pertains.

An individual to whom a record is to be disclosed in person may have a person of his or her own choosing accompany the individual when the record is disclosed.

§ 1705.10 Fees.

(a) The Commission will not charge an individual for the costs of making a search for a record or the costs of reviewing the record. When the Commission makes a copy of a record as a necessary part of the process of disclosing the record to an individual, the Commission will not charge the individual for the cost of making that copy.

(b) If an individual requests the Commission to furnish him or her with a copy of the record (when a copy has not otherwise been made as a necessary part of the process of disclosing the record to the individual) the Commission will charge a fee of $0.25 per page (maximum per page dimension of 8½ by 13 inches) to the extent that the request exceeds $5 in cost to the Commission. Requests not exceeding $5 in cost to the Commission will be met without cost to the requester.

§ 1705.11 Penalties.

Title 18 U.S.C. 1001, Crimes and Criminal Procedures, makes it a criminal offense, subject to a maximum fine of $10,000 or imprisonment for not more than 5 years or both to knowingly and willfully make or cause to be made any false or fraudulent statements or representations in any matter within the jurisdiction of any agency of the United States. Section 552a(i)(3) of the Privacy Act (5 U.S.C. 552a(i)(3)), makes it a misdemeanor, subject to a maximum fine of $5,000, to knowingly and willfully request or obtain any record concerning an individual under false pretenses. Section 552a(i) (1) and (2) of the Privacy Act (5 U.S.C. 552a(i) (1) and (2)) provide penalties for violations by agency employees of the Privacy Act or regulations established thereunder.

§ 1705.12 Exemptions.

No Commission records system is exempted from the provisions of 5 U.S.C. 552a as permitted under certain conditions by 5 U.S.C. 552a (j) and (k).

[FR Doc. 78-28850 Filed 10-12-78; 8:45 am]

[4310-55-M]

Title 50—Wildlife and Fisheries

CHAPTER 1—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

Opening of Muscatatuck National Wildlife Refuge, Ind., 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 Muscatatuck National Wildlife Refuge to rabbit and quail hunting is compatible with the objectives for which the area was established, will utilize a renewable national resource, and will provide additional recreational opportunity to the public.

DATES: November 10, 1978, through January 31, 1979, for rabbit; November 10, 1978, through December 25, 1978, for quail.

FOR FURTHER INFORMATION CONTACT:

Charles E. Scheffe, refuge manager, Muscatatuck National Wildlife Refuge, P.O. Box 631, Seymour, Ind. 47274, telephone; 812-522-4352.

SUPPLEMENTARY INFORMATION:

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

Public hunting of rabbit and quail is permitted on the Muscatatuck National Wildlife Refuge, Ind. only on refuge lands lying south of Myers Road, designated by signs as open to hunting. This area comprising 1,320 acres is delineated on a map available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minn. 55111. Hunting of rabbits and quail shall be in accordance with all applicable State regulations.

The provisions of this special regulation supplement the regulations which govern 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.

Dated: October 4, 1978.

CHARLES E. SCHEFFE,
Refuge Manager.

[FR Doc. 78-28858 Filed 10-12-78; 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.

[1505-01-M]

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

[7 CFR Part 1464]

TOBACCO LOAN PROGRAM

Proposed 1978 Crop Grade Loan Rates—Burley Tobacco

Correction

In FR Doc. 78-26166, appearing at page 41991 in the issue for Tuesday, September 19, 1978, the heading now reading "Tobacco Plan Program", should read as set forth above.

[6750-01-M]

FEDERAL TRADE COMMISSION

[16 CFR Part 444]

CREDIT PRACTICES

Publication of Presiding Officer's Report Regarding Proposed Trade Regulation Rule

AGENCY: Federal Trade Commission.

ACTION: Publication of presiding officer's report.

SUMMARY: This document gives notice that the presiding officer's report concerning the proposed trade regulation rule on credit practices has been made public. The report is required by the Commission's rules of practice for rulemaking and consists of the presiding officer's summary, findings, and conclusions with regard to the proposed rule.

DATE: The 60-day period which the rules of practice for rulemaking (16 CFR 1.13(g)) provide for public comment on both the report by the presiding officer and the report of the staff will not commence until the staff's report has been made public and placed on the public record. Therefore, comment on the presiding officer's report alone would be considered premature at this time.

FOR FURTHER INFORMATION CONTACT:

Henry B. Cabell, Presiding Officer, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, 202-724-1045.

SUPPLEMENTARY INFORMATION: On June 24, 1977, the presiding officer published in the FEDERAL REGISTER (42 FR 32259) final notice of the proposed trade regulation rulemaking proceeding. The presiding officer's report, required by the Commission's rules of practice for rulemaking (16 CFR 1.13(f)) consisting of his summary, findings, and conclusions with regard to the proposed rule and to those issues designated by him, has been made public and placed on Public Record 215-42. A limited number of copies of the presiding officer's report have been printed for distribution; to obtain a copy, address a request to the Federal Trade Commission/SSD, Washington, D.C. 20580. When completed, the staff's report on the rulemaking record and its recommendations to the Commission also will be made public and notice thereof published in the FEDERAL REGISTER. The presiding officer's report has not been reviewed or adopted by either the Bureau of Consumer Protection or the Commission itself and its publication should not be interpreted as reflecting the present views of the Commission or any individual Commissioner.

Issued: October 6, 1978.

HENRY B. CABELL,
Presiding Officer.

[FR Doc. 78-29054 Filed 10-12-78; 8:45 am]

[6355-01-M]

CONSUMER PRODUCT SAFETY COMMISSION

[16 CFR Part 1307]

CONSUMER PRODUCTS CONTAINING BENZENE

Extension of Time for Rulemaking

AGENCY: Consumer Product Safety Commission.

ACTION: Extension of time for promulgation of rule.

SUMMARY: The Commission extends the time from October 16, 1978 to April 16, 1979 in which it must issue a consumer product safety rule to declare that certain benzene-containing consumer products are banned hazarddous products under section 8 of the Consumer Product Safety Act (CPSA) or to withdraw the rule proposed on May 19, 1978. This extension is necessary to enable Commission staff to analyze the technical data submitted by commenters as well as to address complicated scientific issues raised by comenters.

DATES: The Commission extends the time from October 16, 1978 to April 16, 1979.

FOR FURTHER INFORMATION CONTACT:

Francine Shacter, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207, phone 301-492-6453.

SUPPLEMENTARY INFORMATION: On May 19, 1978, the Commission proposed a ban under section 8 of the Consumer Product Safety Act (CPSA) of all consumer products, except gasoline and solvents or reagents for laboratory use, containing benzene as an intentional ingredient or as a contaminant at a level of 0.1 percent or greater by volume. (see 43 FR 21838). Based on information discussed in the proposal, the Commission preliminarily concluded that benzene-containing consumer products present an unreasonable risk of injury to the public because benzene inhalation can cause blood disorders, chromosomal abnormalities, and leukemia. The Commission also concluded that no feasible standard could adequately protect the public from these risks. The proposed ban specified that written comments should be submitted on or before June 30, 1978. The proposal also invited interested persons to make an oral presentation at a proceeding that was conducted on June 14, 1978.

On June 27, 1978, the Commission, at the request of several interested parties, extended the comment period on issues relating specifically and solely to the proposed ban on benzene as a contaminant until August 31, 1978. (see 43 FR 27852). At that time the Commission indicated that the splitting of the comment period might mean that the Commission would take final action on the proposed ban on benzene as an intentional ingredient before taking final action on the proposed contaminant ban. The Commission noted that the issues surrounding the contaminant portion of the ban appeared to be more comlex and the hazards presented less urgent because of the smaller amounts of benzene in products containing the chemical as a contaminant.

The Commission has received a total of 42 comments as well as 6 oral presentations concerning both portions of the proposed ban. Many of the comments and oral presentations criticize the proposal and raise complex scientific and technical issues, including the

claim that there is no evidence that low levels of exposure to benzene constitute a health hazard, the contention that a safe threshold level for exposure to benzene exists, the assertion that the Commission's risk assessment is inadequate, and the claim that the proposed contamination level is neither justified nor commercially feasible. The data the Commission must analyze in order to address there comments and presentations are voluminous.

In addition, a review of the comments and presentations has indicated that it may not be appropriate to take final action on the intentional ingredient ban separately and in advance of any action on the contaminant ban. It is difficult to distinguish those parts of the submissions which are comments on benzene as an intentional ingredient from those parts which are comments on benzene as a contaminant and in fact, many of the comments received at the Commission on August 31, 1978 actually raise issues relevant to the intentional ingredient ban. Since the scientific basis for both portions of the ban is the same, the Commission has decided that the comments received by June 30, 1978 as well as the comments received by August 31, 1978 should be reviewed and analyzed together. While such an analysis now will require more time than analysis directed solely at frist issuing a final regulation concerning benzene as an intentional ingredient, the Commission points out that the need for immediate action on the intentional use of benzene in consumer has recently diminished. Information available to the Commission indicates that by the end of the year not a single manufacturer will be making consumer products containing intentionally added benzene.

Therefore, in view of the complexity of the issues raised in the comments on the proposal, the desirability of reviewing all the comments submitted as a total body of information, and the need to analyze and respond to each substantive comment in any final regulation, the Commission, in accordance with section 9(2) of the Consumer Product Safety Act (15 U.S.C. 2058(a)), finds that good cause exists to extend the period within which it must promulgate a consumer product safety rule or withdraw the proposal for 6 months, until April 16, 1979. This period may be further extended for good cause by notice published in the FEDERAL REGISTER.

Dated: October 10, 1978.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

[FR Doc. 78-29052 Filed 10-12-78; 8:45 am]

[4110-03-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR PART 310]

[Docket No. 78N-0274]

ESTROGENIC, ORAL CONTRACEPTIVE, AND PROGESTATIONAL DRUG PRODUCTS

Proposed Requirements for Patient Labeling

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend patient-labeling requirements for estrogenic, oral contraceptive, and progestational drug products to permit dispensers to use uniform or "generic" labeling. The agency is also proposing amendments to the patient-labeling regulations to clarify dispensers' responsibilities when drug products subject to the regulations are dispensed to legally incompetent patients. The proposed amendments are made in response to the requests of a number of dispensers of prescription drugs.

DATE: Comments by December 12, 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:

Steven Unger, Bureau of Drugs (HFD-30), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-5220.

SUPPLEMENTARY INFORMATION: The Food and Drug Administration (FDA) is proposing to amend the regulations requiring patient labeling for estrogenic, oral contraceptive, and progestational drug products to provide for the use by drug dispensers of uniform or "generic" labeling for all members of the class of drug products subject to each patient-labeling regulation. This action is taken in response to the requests of several dispensers of prescription drugs who claim that current requirements entail the excessively burdensome and costly storage, collation, and distribution of a large volume of product-specific patient-labeling leaflets.

Under current regulations the use of a slightly modified kind of uniform labeling is already possible. With each of the patient-labeling regulations published to date, the agency has made available a guideline patient-labeling text and advised that any person could rely on the text to comply with the requirements of the regulation. This policy is compatible with the use of uniform labeling, i.e., labeling which could be used interchangeably for all drugs in a patient-labeling class. However, regulations arguably prevent the use of completely uniform labeling by requiring that the labeling identify the name of the particular drug being dispensed to the patient and the name and place of business of the manufacturer, packer, relabeler, or distributor of the drug. These provisions, which were intended to require the labeling to identify the particular product being dispensed, do not clearly authorize attempts to use completely uniform labeling.

In response to the final rule requiring patient labeling for estrogenic drug products published in the FEDERAL REGISTER of July 22, 1977 (42 FR 37636), FDA received a number of requests from dispensers of prescription drugs urging the agency to amend the regulation to permit the use of uniform labeling. The requests noted the difficulties posed for dispensers in storing, collating, and distributing the large number of individualized patient-labeling leaflets. Several requests suggested that a revision of the patient-labeling regulation to facilitate the use of uniform labeling would significantly reduce the dispenser's burden without seriously detracting from the major purposes and benefits of patient-labeling. Copies of the requests have been placed on file in the office of the Hearing Clerk, FDA (address above).

The Commissioner of Food and Drugs has tentatively concluded and is proposing that the patient-labeling regulations should permit the use of uniform labeling. This proposal, if adopted, would permit the substitution of the class name of the drug product (i.e., "oral contraceptives," "estrogens for general use," "progestational drug product") for the required name of the particular drug product (brand name and generic name). The proposal would also permit the identification of the name and place of business of the dispenser in place of the presently required name and place of business of the manufacturer, packer, relabeler, or distributor. These changes would enable dispensers to meet the requirements of the patient-labeling regulations by employing one of the following distribution methods:

1. The dispenser of the drug may continue to use the patient labeling which is supplied with each shipment of the drug product; or

2. The dispenser may replace the patient labeling received from the channels of distribution with uniform patient labeling prepared for or by the dispenser. The dispenser would then assume responsibility for assuring that the labeling complied with all current regulatory requirements.

The Commissioner does not intend this proposal to permit dispensers to substitute their own patient labeling for the labeling contained in unit-of-use packages (e.g., oral contraceptive monthly "compacts") prepared by the manufacturer, packer, labeler, or distributor and intended to be dispensed to the patient as initially packaged.

Section 201.150 of the drug labeling regulations (21 CFR 201.150) currently permits drugs which are, in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantity at an establishment other than the one where originally processed or packed, to be shipped in interstate commerce under certain circumstances without meeting specified labeling requirements. One such circumstance is under a labeling "agreement," wherein the person who will process, label, or repack the drugs agrees in writing to abide by conditions which insure that the drugs will not be misbranded or adulterated upon completion of the processing, labeling, or repacking.

Although the proposed requirements (in §§ 310.501(a)(7), 310.515(d)(4), and 310.516(e)(5)) would permit dispensers or retailers to prepare and dispense patient labeling in the absence of an agreement, the use of uniform patient labeling by pharmacies and other dispensers presents a situation in which labeling agreements may be useful. Manufacturer-prepared labeling becomes superfluous and is likely to be discarded before use when the dispenser prepares its own generic labeling. Accordingly, the Commissioner proposes to permit dispensers and manufacturers, repackers, and distributors to enter into labeling agreements under which the dispenser would agree to meet applicable patient-labeling requirements. Under such an agreement the manufacturer, packer, relabeler, or distributor would be relieved of the obligation to ship patient labeling with the drug product. Persons entering into such agreements would assume responsibility to comply with the requirements pertaining to written agreements as set forth in § 201.150 of the regulations. Additionally, the proposal would require that the labeling agreement include: (1) A copy of the patient labeling to be used by the dispenser and (2) a statement that the dispenser will prepare and distribute labeling that meets the requirements of the patient-labeling regulation.

The use of dispenser-prepared uniform labeling would not subject dispensers to the registration and drug listing requirements as set forth in section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360) and Part 207 of the regulations (21 CFR Part 207). The Commissioner considers the use of dispenser-prepared uniform labeling to be within the terms of § 207.65 of the regulations (21 CFR 207.65), which exempts certain domestic drug establishments, including pharmacies, hospitals, and clinics, from registration and drug listing.

The Commissioner acknowledges that there are some advantages to retaining those requirements that assure the use of product-specific labeling. Product-specific labeling, in identifying the name and the source of particular drug products, may enhance the possibility that manufacturers can assist dispensers in updating and, if necessary, recalling labeling, because the labeling can be correlated to the various products' lot numbering systems. Moreover, such labeling does provide some assurance that a specific manufacturer's patient labeling will be dispensed with the manufacturer's product, a consideration of some importance to dispensers in terms of their legal responsibility. However, the Commissioner notes that the amendments proposed by this document are permissive in nature—this proposal would not prohibit the use of product-specific labeling, but rather would make possible the alternative use of uniform patient labeling. To the extent that the advantages of product-specific patient labeling are plainly demonstrated, the Commissioner believes that such labeling will continue to be widely used.

In response to the requests asking that the agency permit the use of uniform labeling, the Bureau of Drugs has advised a number of dispensers that, as a matter of compliance policy, the Bureau does not object to dispensers assuming responsibility for complying with the requrements of the patient labeling regulation through the use of dispenser-prepared uniform labeling. Copies of the Bureau's written responses announcing this policy have been placed on file in the office of the Hearing Clerk, FDA (address above). Pending the receipt of comments on the proposal and the Commissioner's final decision on the matter, this compliance policy will remain in effect. If the Commissioner determines not to adopt this proposal as a final rule, a notice announcing that decision will be published in the FEDERAL REGISTER. A decision not to adopt this proposal would, of course, require the agency to reconsider the present compliance policy, and perhaps to modify any dispenser-initiated patient-labeling programs that have been undertaken.

LABELING FOR LEGALLY INCOMPETENT PATIENTS

The Commissioner is also proposing to amend the patient-labeling regulations for oral contraceptives, estrogens, and progestational drug products to permit dispensers to distribute patient labeling to the parent or legal guardian of a legally incompetent patient. This action is taken in response to inquiries asking the agency to clarify and address explicitly the obligations of dispensers when drug products subject to the regulation are dispensed to mentally disabled adults or to children who are not legally competent to consent to medical treatment with the drug product. Although the Commissioner hopes that in appropriate circumstances the dispenser will provide the labeling to the parent or legal guardian of the patient, the Commissioner understands that circumstances frequently do not enable the dispenser to determine the legal capacity of the patient. Therefore this proposal would not require distribution of labeling to the parent or legal guardian of the patient, but rather would permit such distribution in lieu of providing the labeling directly to the patient.

The patient labeling regulations currently require that labeling for drug products dispensed in acute-care hospitals or long-term-care facilities be provided to the patient before administration of the first dose and then at 30-day intervals for as long as the therapy continues. Because this proposed amendment would apply to inpatients as well as outpatients, its adoption would permit labeling to be provided to the legal representative of the legally incompetent inpatient at the stated 30-day intervals. However, the Commissioner recognizes that in acute-care and long-term-care facilities the provision of labeling to a parent or legal guardian of the patient poses significant difficulties because the parent or legal guardian is frequently unavailable. Therefore this document proposes to amend the regulation to provide that in the case of a legally incompetent institutionalized patient, patient labeling may be provided to the parent or legal guardian of the patient before first administration of the drug and subsequently each time the patient's drug therapy is reevaluated with the parent or legal guardian. This revision should insure that the labeling is distributed to the parent or legal guardian of the patient at the most critical junctures in the course of the patient's therapy.

Section 310.501(a)(6) of the oral contraceptive patient-labeling regulation (21 CFR 310.501(a)(6)) requires that

the manufacturer, packer, relabeler, or distributor provide patient labeling to the "retailer" of the drug product. As used in this context, "retailer" is synonymous with "dispenser." This document proposes to amend § 310.501(a)(6) to indicate clearly that the two words are synonymous.

The Commissioner has determined that this document does not contain an agency action covered by § 25.1(b) and therefore, consideration by the agency of the need for preparing an environmental impact statement is not required.

Accordingly, under the Federal Food, Drug and Cosmetic Act (secs. 201, 502(a), 503(a), 505, 701(a), 52 Stat. 1040–1042 as amended, 1050–1053 as amended, 1055 (21 U.S.C. 321, 352(a), 353(a), 355, 371(a)) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend part 310 of chapter I of title 21 of the Code of Federal Regulations as follows:

1. In § 310.501, by revising paragraphs (a)(1), (a)(3) (i) and (ii), and the introductory text of paragraph (a)(6); by redesignating existing paragraphs (a)(7), (a)(8), and (a)(9) as (a)(9), (a)(10), and (a)(11), respectively, and adding new paragraphs (a)(7) and (a)(8); and by revising newly designated paragraph (a)(11), to read as follows:

§ 310.501 Preparations for contraception; labeling directed to the patient.

(a) *Oral contraceptives.* (1) The Commissioner of Food and Drugs concludes that the safe and effective use of oral contraceptive drug products requires that patients be fully informed of the benefits and risks involved in the use of these drugs. Information in lay language concerning effectiveness, contraindication, warnings, precautions, and adverse reactions shall be furnished to each patient receiving oral contraceptives. This information shall be given to the patient in the form of a brief summary of certain essential information included in each package dispensed to each patient, and in a longer, detailed labeling piece in or accompanying each package dispensed to each patient.

* * * * *

(3) * * *

(i) Name of the drug product (brand name and generic name) or class name of the drug ("Oral Contraceptives").

(ii) Name and place of business of the manufacturer, packer, relabeler, distributor, or dispenser.

* * * * *

(6) Patient labeling for each oral contraceptive drug product shall be provided to the retailer or dispenser by the manufacturer, packer, relabeler, or distributor as follows:

* * * * *

(7) A manufacturer, packer, relabeler, or distributor may, with the retailer or dispenser of the drug product, enter into a labeling agreement under which the retailer or dispenser assumes responsibility to prepare and distribute oral contraceptive patient labeling in full compliance with this section. Nothing in this paragraph shall preclude a retailer or dispenser from preparing and dispensing patient labeling that complies with this section in the absence of a written agreement. Persons who enter into labeling agreements shall comply with the requirements of § 201.150 of this chapter pertaining to the use of written agreements. Under a valid labeling agreement, a manufacturer, packer, relabeler, or distributor is exempt from the requirements of this paragraph with respect to the oral contraceptive drug product that are subject to such agreement. In addition to the requirement of § 201.150 of this chapter, a labeling agreement shall contain the following:

(i) A copy of the patient labeling that complies with this section and that will be provided to the patient.

(ii) A statement that the dispenser will prepare and distribute patient labeling that fully complies with all requirements of this section.

(8) Patient labeling for each oral contraceptive drug product shall be provided by the retailer or dispenser to the patient as follows:

(i) The brief summary patient labeling shall be included in each package dispensed or administered to the patient.

(ii) The detailed patient labeling shall be included in or shall accompany each package dispensed or administered to the patient.

(iii) In the case of oral contraceptive drug products dispensed or administered to patients who are legally incompetent under applicable State and local law, the labeling (brief summary and detailed patient labeling) may be provided to the parent or legal guardian of the patient.

(iv) Patient labeling for drug poducts dispensed in acute-care hospitals or long-term-care institutions will be considered to have been provided in accordance with this section if that labeling is provided to the patient before first administration of the oral contraceptive and every 30 days thereafter, as long as the therapy continues. However, in the case of patients in acute-care-hospitals or long-term-care institutions who are not legally competent, the patient labeling will be considered to have been provided in accordance with this paragraph if that labeling is provided to the parent or legal guardian before first administration of the oral contraceptive and each subsequent time the patient's drug therapy is reevaluated with the parent or legal guardian.

* * * * *

(11) Holders of new drug applications for oral contraceptive drug products that are subject to paragrah (a) of this section shall submit supplements under § 314.8(d) of his chapter to provide for the labeling required by paragraph (a)(2) and (3) of this section. The labeling may be put into use without advance approval by the Food and Drug Administration.

* * * * *

2. In § 310.515, by revising paragraphs (b)(1), (b)(2), and (d)(1), and by adding new paragraph (d)(4), to read as follows:

§ 310.515 Estrogens; labeling directed to the patient.

* * * * *

(b) * * *

(1) Name of the drug product (brand name and generic name) or class name of the drug ("Estrogens for general use").

(2) Name and place of business of the manufacturer, packer, relabeler, distributor, or dispenser.

* * * * *

(d)(1) Patient labeling for each estrogen drug product shall be provided in or with each package of the drug product intended to be dispensed or administered to the patient.

(i) In the case of estrogen drug products dispensed or administered to patients who are legally incompetent under applicable State and local law, patient labeling may be provided to the parent or legal guardian of the patient.

(ii) Patient labeling for drug products dispensed in acute-care hospitals or long-term-care institutions will be considered to have been provided in accordance with this section if that labeling is provided to the patient before administration of the first dose of estrogen and every 30 days thereafter, as long as the therapy continues. However, in the case of patients in acute-care hospitals or long-term-care institutions who are not legally competent, the patient labeling will be considered to have been provided in accordance with this paragraph if that labeling is provided to the parent or legal guardian of the patient before first administration of the estrogen and each subsequent time the patient's drug ther-

apy is reevaluated with the parent or legal guardian.

* * * * *

(4) A manufacturer, packer, relabeler, or distributor may, with the dispenser of the drug product, enter into a labeling agreement under which the dispenser assumes responsibility to prepare and distribute estrogen drug product patient labeling in full compliance with the requirements of this section. Nothing in this paragraph shall preclude a retailer or dispenser from preparing and dispensing patient labeling that complies with this section in the absence of a written ageement. Persons who enter into labeling agreements shall comply with the requirements of § 201.150 of this chapter pertaining to the use of written agreements. Under a valid labeling agreement, a manufacturer, packer, relabeler, or distributor is exempt from the requirements of this section with respect to the estrogenic drug products that are subject to such agreement. In addition to the requirements of § 201.150 of this chapter, a labeling agreement shall contain the following:

(i) A copy of the patient labeling that complies with this section and that will be provided to the patient.

(ii) A statement that the dispenser will prepare and distribute patient labeling that fully complies will all requirements of this section.

* * * * *

3. In § 310.516, by revising paragraphs (b)(1), (b)(2), and (e)(1); by adding a new paragraph (e)(5); and by revising paragraph (g), to read as follows:

§ 310.516 Progestational drug products; labeling directed to the patient.

* * * * *

(b) * * *

(1) Name of the drug product (brand name and generic name) or class name of the drug ("Progestational drug product").

(2) Name and place of business of the manufacturer, packer, relabeler, distributor, or dispenser.

* * * * *

(e)(1) Patient labeling for each progestational drug product shall be provided in or with each package intended to be dispensed to the patient.

(i) In the case of progestational drug products dispensed or administered to patients who are legally incompetent under applicable State and local law, patient labeling may be provided to the parent or legal guardian of the patient.

(ii) Patient labeling for progestational drug products dispensed in acute-care hospitals or long-term-care institutions will be considered to have been provided in accordance with this section if that labeling is provided to the patient before administration of the first dose of the drug and every 30 days thereafter, as long as the therapy continues. However, in the case of patients in acute-care hospitals or long-term-care institutions who are not legally competent, the patient labeling will be considered to have been provided in accordance with this paragraph if that labeling is provided to the parent or legal guardian of the patient before first administration of the drug and each subsequent time the patient's drug therapy is reevaluated with the parent or legal guardian.

* * * * *

(5) A manufacturer, packer, relabeler, or distributor may, with the dispenser of the drug product, enter into a labeling agreement under which the dispenser assumes responsibility to prepare and distribute progestational drug product patient labeling in full compliance with the requirements of this section. Nothing in this paragraph shall preclude a retailer or dispenser from preparing and dispensing patient labeling that complies with this section in the absence of a written agreement. Persons who enter into labeling agreements shall comply with the requirements of § 201.150 of this chapter pertaining to the use of written agreements. Under a valid labeling agreement, a manufacturer, packer, relabeler, or distributor is exempt from the requirements of this section with respect to the progestational drug products that are subject to such agreements. In addition to the requirements of § 201.150 of this chapter, a labeling agreement shall contain the following:

(i) A copy of the patient labeling that complies with this section and that will be provided to the patient.

(ii) A statement that the dispenser will prepare and distribute patient labeling that fully complies with all requirements of this section.

* * * * *

(g) Holders of new drug applications for progestational drug products that are subject to this section shall submit supplements under § 314.8 of this chapter to provide for the labeling required by paragraph (a) of this section. The labeling may be put into use without advance approval by the Food and Drug Administration.

Interested persons may, on or before December 12, 1978, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

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: October 3, 1978.

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

[FR Doc. 78-28571 Filed 10-12-78; 8:45 am]

[4210-01-M]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI-4600]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Decatur, Morgan County, Ala.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

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

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

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at North Cen-

tral Alabama Regional Council of Governments, 5th Floor, Decatur City Hall, P.O. Box 488, Decatur, Ala. 35602. Send comments to: Mayor Bill Dukes or Mr. Gary Voketz, Executive Director, North Central Alabama Regional Council of Governments, 5th Floor, Decatur City Hall, P.O. Box 488 Decatur, Ala. 35602.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, room 5270, 451 Seventh Street SW., Washington, D.C. 10410, 202-755-5581 or toll-free line 800-424-8872.

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

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

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

Source of flooding	Location	Elevation, in feet, national geodetic vertical datum
Tennessee River	Just upstream U.S. Highways 31 and 72.	560
	Confluence of Flint Creek.	561
Betty Rye Branch.	Western corporate limits.	566
	Just downstream 2d St	578
Dry Branch	Just downstream Washington St.	561
	Just upstream Moulton St.	564
	2d Ave	576
	Just downstream of 19th Ave.	601
Flint Creek	Just upstream of State Highway 67.	562
	Southern Corporate limits.	565
Brush Creek	Flint Rd	565
	Chenault Dr	569
Clark Spring Branch.	Stanley St	572
	Just upstream of Sandlin Rd.	586
	Confluence of No. 3 Tributary to Clark Spring Branch.	601
No. 3 Tributary to Clark Spring Branch.	Just downstream Danville Rd.	608
	Just upstream Danville Rd.	610
Sheet Flow area	Intersection of Fairway Circle and Fairway Dr.	569

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

Issued September 15, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28639 Filed 10-12-78; 8:45 am]

[4210-01-M]

[24 CFR PART 1917]

[Docket No. FI-4601]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Guin, Marion County, Ala.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

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

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

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, P.O. Box 249, Guin, Ala. Send comments to: Mayor C. P. Guin, City Hall, P.O. Box 249, Guin, Ala. 35563.

FOR FURTHER INFORMATION CONTACT:

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

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

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

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Purgatory Creek	Just upstream of Alabama Highway 118.	415
	Just downstream of U.S. 278.	427
	Just downstream RR. Spur to 3M Co.	439
Reedy Branch	Just upstream of U.S. Highway 78/43.	452
Little Creek	Just upstream of 10th Ave.	433
	Just upstream of 15th Ave.	447
Tributary 1	Approximately 100 feet downstream Alabama Highway 118.	426

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

Issued: September 17, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28640 Filed 10-12-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4039]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Avondale, Maricopa County, Ariz.; Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 16746 of the FEDERAL REGISTER of April 20, 1978.

FOR FURTHER INFORMATION CONTACT:

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

The following corrections are made:

Along Agua Fria River at Broadway Road Extension—934 feet.

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

Issued: September 19, 1978

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28641 Filed 10-12-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4296]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Phoenix, Maricopa County, Ariz.; Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: The notice published on July 19, 1978, at 43 FR 31026 in the FEDERAL REGISTER and in the *Arizona Republic* on June 5 and 6, 1978, describing 83d Avenue Bridge Upstream at 974 feet and 99th Avenue (Extended) Upstream at 960 feet listed under Salt River in Phoenix, should be corrected to read 83d Avenue (Extended) Upstream 974 and 99th Avenue (Extended) Upstream at 958 feet.

FOR FURTHER INFORMATION CONTACT:

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

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

Issued: September 19, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28642 Filed 10-12-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4602]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Dermott, Chicot County, Ark.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

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

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

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Dermott, Ark. 71638. Send Comments to: Mayor Ben Bynum or Mr. Ed Hanum, Community Development Director, City Hall, P.O. Box 375, Dermott, Ark. 71638.

FOR FURTHER INFORMATION CONTACT:

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

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

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

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Big Bayou Slough.	Intersection of East Hickory Street and Deer Street.	138
	Intersection of East Broadway and South Donard Street.	137

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

Issued: September 20, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28643 Filed 10-12-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4603]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Eudora, Chicot County, Ark.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

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

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

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 239 South Main Street, Eudora, Ark. 71640.

Send comments to: Mayor H. E. Nunnelee, City Hall, 239 South Main Street, Eudora, Ark. 71640.

FOR FURTHER INFORMATION CONTACT:

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

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

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

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Macon Bayou.....	Southern corporate limits.	108
	Just downstream of Macon Bayou Bridge.	109

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

Issued: September 20, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28644Filed 10-12-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4604]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Suffield, Hartford County, Conn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

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

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

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Hall, 97 Mountain Road, Suffield, Conn. Send comments to: Mr. Earl Waterman, First Selectmen, Town of Suffield, Town Hall, 97 Mountain Road, Suffield, Conn. 06078.

FOR FURTHER INFORMATION CONTACT:

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

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

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

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Connecticut River.	ConRail—100 ft*.....	36
	Old Bridge St. Bridge piers—50 ft*.	44
	Enfield Dam—100 ft*.....	50
	Old State Route 190 Bridge piers—50 ft*.	53
Stony Brook.....	Canal Bridge—30 ft*.....	38
	1st crossing pipe crossing—50 ft**.	39
	1st crossing pipe crossing—100 ft*.	49
	2d crossing pipe crossing—50 ft*.	59
	Boston Neck Road Bridge—100 ft**.	88
	Boston Neck Road Bridge—100 ft*.	105

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Suffield Street Bridge—100 ft*.	113
	State Route 75 bridge—100 ft*.	116
	Dam upstream ConRail bridge—100 ft**.	118
	Dam upstream ConRail bridge—100 ft*.	123
	2d Crossing Farm Bridge—100 ft*.	130
Muddy Brook	State Route 190 bridge—50 ft*.	119
	Stiles Road Bridge—50 ft*.	122
Philo Brook	Russell Avenue—50 ft*	124
	Halladay Avenue Bridge—50 ft*.	130

* Upstream of centerline.
** Downstream of centerline.

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

Issued: September 20, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28645 Filed 10-12-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4605]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Maitland, Orange County, Fla.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

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

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

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, P.O. Box 66, Maitland, Fla. 32751. Send comments to: Mayor James Houser, City Hall, P.O. Box 66, Maitland, Fla. 32751.

FOR FURTHER INFORMATION CONTACT:

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

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

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

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lake Sybelia	Intersection of Lake Sybelia Dr. and Jackson St.	78
Lake Jackson	Just north of Brook Dr.	84
Lake Destiny	Just west of Lake Destiny Dr.	93
Lake Lucien	At Maitland Cemetery	94
Lake Hungerford	Intersection of Calver Ave. and Bethune Dr.	97
Lake Charity	Approximately 400 ft north of Maitland Blvd.	73
Lake Hope	Lake Hope at the northern corporate limits.	74
Lake Faith	Just northwest of the intersection of Maitland Ave. and Greenwood Rd.	73
Park Lake	Just north of Gem Lake Dr.	73
Lake Maitland	Intersection of Whitecaps Circle and Adams Dr.	68
Lake Minnehaha	At Minnehaha Lane	68
Lake Catherine	Lake Catherine Dr	71
Howell Creek	Just downstream of Horatio Ave.	68
Stream A	Chippewa Trail (extended).	68
Lake Gem	Just north of the intersection of Monroe Ave. and Lewis Dr.	73

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

Issued: September 14, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28646 Filed 10-12-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4606]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Pompano Beach, Broward County, Fla.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

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

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

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Pompano Beach, Fla. Send comments to: Hon. William Alsdorf, Mayor, City of Pompano Beach, P.O. Drawer 1300, Pompano Beach, Fla. 33061.

FOR FURTHER INFORMATION CONTACT:

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

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

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

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Atlantic Ocean	Intersection of Andrews Ave. and SW. Eighth St.	8
	Intersection of South Cypress Rd. and SE. 11th St.	8
	Intersection of North Riverside Dr. and North Ocean Blvd.	8
Shallow Ponding...	Intersection of NW. 15th St. and NW. 14th Ave.	13
	Intersection of NW. Fourth Ave. and NW. 10th St.	12

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

Issued: September 14, 1978

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28647 Filed 10-12-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4607]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for The City of Aberdeen, Bingham County, Idaho

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

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

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

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Aberdeen, Idaho. Send comments to: Hon. Cliff Wrides, Mayor, City of Aberdeen, P.O. Box 190, Aberdeen, Idaho 83210.

FOR FURTHER INFORMATION CONTACT:

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

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

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

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

Source of flooding	Location	Elevation in feet, National geodetic vertical datum
Aberdeen Wasteway.	Central Avenue road.—50 ft*.	4,387
	Bingham Ave.—40 ft*	4,390
	Main St.—50 ft*	4,392
	County road 2800 west—50 ft**.	4,393

* Upstream of centerline.
** Downstream of centerline.

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

Issued: September 15, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28648 Filed 10-12-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4608]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Blackfoot, Bingham County, Idaho.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

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

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

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 157 North Broadway, Blackfoot, Idaho. Send comments to: Hon. Arthur C. Bergner, mayor, city of Blackfoot, City Hall, 157 North Broadway, Blackfoot, Idaho 83221.

FOR FURTHER INFORMATION CONTACT:

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

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

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

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Snake River	County road bridge—50 ft*.	4,480
	U.S. Highway 26—50 ft*.	4,481
	Interstate 15—50 ft*.	4,493
Blackfoot River	Downstream corporate limits.	4,489
	Upstream corporate limits.	4,499
	Area adjacent to Pendelbury Lane (shallow flooding).	**2
	At intersection of Willis St. and South University Ave. (shallow flooding).	**1

* Upstream of centerline.
**Depth.

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

Issued: September 15, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28649 Filed 10-12-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4609]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Prospect Heights, Cook County, Ill.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

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

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

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Prospect Heights City Hall, 4 East Camp McDonald Road, Prospect Heights, Ill. 60070. Send comments to: Hon. Richard Wolf, mayor of Prospect Heights, 4 East Camp McDonald Road, Prospect Heights, Ill. 60070.

FOR FURTHER INFORMATION CONTACT:

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

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

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

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Des Plaines River	Upstream corporate limits.	638
	Downstream corporate limits and State Route 21.	637
McDonald Creek	Upstream corporate limits.	667
	Stonegate Rd. (west)	664
	Palatine Rd. (upstream).	659
	Wheeling Rd. (upstream).	652
	Camp McDonald Rd. (upstream).	648
	Downstream corporate limits.	644
Tributary A McDonald Creek.	Oakton Rd. (upstream)	666
	Elm St. (upstream)	665
	Elmhurst Rd. (upstream).	655
	Willow Rd. (upstream)	653

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

Issued: September 14, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28650 Filed 10-12-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4610]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Benham, Harlan County, Ky.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

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

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

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Benham, Ky. 40807. Send comments to: Mayor Floyd Smith or Ms. Betty Howard, City Clerk, City Hall, Benham, Ky. 40807.

FOR FURTHER INFORMATION CONTACT:

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

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

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

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Looney Creek.....	Just downstream of Kentucky Avenue Bridge.	1,521
	Kentucky 160 Bridge.....	1,580
Maggard Branch...	Just downstream of Kentucky 160 Bridge.	1,591
Haggard Branch....	Just upstream of Central Avenue Bridge.	1,615

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

Issued: September 20, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28651 Filed 10-12-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4611]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Colfax, Grant Parish, La.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

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

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

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Hall, 401 Eighth Street, Colfax, La. 71417. Send comments to: Mayor Herschel Nugent, Town Hall, 401 Eighth Street, Colfax, La. 71417.

FOR FURTHER INFORMATION CONTACT:

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

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

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

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Red River.....	Northern corporate limits.	106
	Southern corporate limits.	106
Bayou Rigolette System (backwater area).	Intersection of Church and Iatt Sts.	95
	Intersection of Graham and Lake Sts.	95

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

Issued: September 20, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28652 Filed 10-12-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4612]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Guilford, Piscataquis County, Maine

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

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

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

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Office, Guilford, Maine. Send comments to: Mr. Robert Littlefield, Town Manager, Town of Guilford, Town Office, Guilford, Maine 04443.

FOR FURTHER INFORMATION CONTACT:

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

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

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

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Piscataquis River..	Eastern corporate limit..	365
	Just downstream of Lows Bridge.	378
	Just downstream of Sangerville Rd.	385
	200 ft downstream of Guilford Dam.	389
	Just upstream of State Route 15.	398
	Western corporate limit.	399
Schoolhouse Brook.	At the confluence with Piscataquis River.	388
	Just upstream of North Guilford Rd. (nearest Dover Rd.).	390
	100 ft upstream of North Guilford Rd. (second crossing from Dover Rd.).	391
	50 ft downstream of North Guilford Rd. (third crossing from Dover Rd.).	422
	50 ft upstream of North Guilford Rd. (fourth crossing from Dover Rd.).	441

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

Issued: September 14, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28653 Filed 10-12-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4613]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Rumford, Oxford County, Maine

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

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

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

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Office, Rumford, Maine. Send comments to: Mr. Howard Waite, Chairman, Board of Selectmen, Town of Rumford, Town Office, Rumford, Maine 04276.

FOR FURTHER INFORMATION CONTACT:

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

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

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

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

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

Source of flooding	Location	Elevation, feet, national geodetic vertical datum
Androscoggin River.	Ridlonville Bridge—100 ft.*.	436
	Rumford Avenue Footbridge—50 ft.*.	441
	Chisholm Bridge—40 ft.*.	460
	Morse Bridge—20 ft.*	495
	High Bridge—50 ft.*	612
	Martin Bridge—20 ft.*	626
Swift River	Red Bridge—20 ft.*	441
	150 ft. upstream of confluence with Scotty Brook.	451

*Upstream of centerline.

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

Issued: September 13, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28654 Filed 10-12-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4614]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of North Attleboro, Bristol County, Mass.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

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

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

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Clerk's Office, Town Office Building, North Attleboro, Mass. Send comments to: The Honorable Susan Nelson, Chairwoman, Board of Selectmen, Town of North Attleboro, 43 South Washington Street, North Attleboro, Mass.

FOR FURTHER INFORMATION CONTACT:

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

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

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

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

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Ten Mile River	Downstream corporate limits.	137
	Just upstream of Cedar Rd.	139
	Just upstream of Freeman St.	144
	Just upstream of Sturdy Lane.	146
	Just upstream of Towne St.	148
	Just upstream of Mount Hope St.	151
	Just upstream of Falls Pond Dam.	176
	Just downstream of Washington St.	176
	Just upstream of Chestnut St.	181
	Just upstream of Orne St.	184
	Just downstream of Whiting Pond Dam.	185
	Just upstream of Whiting Pond Dam.	191
	Upstream corporate limit.	191
Bungay River	Downstream corporate limit.	126
	Confluence of Landry Avenue Brook.	128
	Bungay Rd	129
Sevenmile River	Downstream corporate limit.	141
	Just upstream of Old Mill Dam.	145
	845 ft upstream of Old Mill Dam.	146
	2,100 ft downstream of Interstate 295.	152
	Just upstream of Interstate 295.	157
	Just upstream of Adams Ave.	161
	Just downstream of private drive, near Adams Ave.	164
	Just upstream of private drive, near Adams Ave.	168
	1,100 ft downstream of Washington St.	169
	1,020 ft upstream of Washington St.	178
	300 ft downstream of Hoppin Hill Rd.	186
	Just upstream of Hoppin Hill Rd.	189
Rattlesnake Brook	At confluence with Ten Mile River.	142
	Just downstream of Commonwealth Ave.	146
	Just upstream of Commonwealth Ave.	150
	Just upstream of Ivy St.	162
	Just downstream of Towne St.	175
	Just upstream of Towne St.	180
Mason Park Brook	At confluence with Ten Mile River.	150
	At Mount Hope Cemetery.	151
	Just downstream of Spring and Lyman Sts.	175
	Just upstream of Spring and Lyman Sts.	180
	Just downstream of Janice Lane.	187
	Just upstream of Janice Lane.	191
	420 ft upstream of Janice Lane.	196
	100 ft downstream of Landry Ave.	202
	150 ft upstream of Landry Ave.	206
Scotts Brook	At the confluence with Ten Mile River.	179

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Just downstream of Washington St.	187
	Just upstream of Washington St.	189
	Just downstream of gravel road, upstream of Washington St.	191
	Just upstream of gravel road, upstream of Washington St.	193
	Just downstream of Avery St.	206
	Just upstream of Avery St.	209
	100 ft downstream of Broadway.	209
	Just downstream of Broadway.	214
	Just upstream of Broadway.	217
	Just downstream of old railroad grade.	218
	Just upstream of old railroad grade.	222
	Just downstream of Arnold Rd.	249
	Just upstream of Arnold Rd.	253
	Just downstream of High St.	266
	Upstream of High St	271
Elmwood Street Brook.	At confluence with Ten Mile River.	185
	Just downstream of Washington St.	188
	Just upstream of Washington St.	192
	Just downstream of Parmenter Lane.	285
	Just upstream of Parmenter Lane.	288
Whiting Pond Bypass.	At confluence with Ten Mile river.	182
	Just upstream of Whiting St.	182
	Upstream corporate limit.	185
Mary Kennedy Brook.	At confluence with Bungay River.	126
	200 ft upstream of Mary Kennedy Drive Extension.	126
	Just downstream of Mary Kennedy Dr.	131
	Just downstream of Kelley Blvd.	133
	Just upstream of Kelley Blvd.	138
Armstrong Brook..	At confluence with Bungay River.	126
	Just upstream of gravel road near confluence with Bungay River.	127
	Just downstream of Lindsey St.	129
	200 ft upstream of Lindsey St.	130
Landry Avenue Brook.	Just downstream of Fish Hatchery Rd.	128
	Just upstream of Fish Hatchery Rd.	131
	Just downstream of Bungay Rd.	135
	Just upstream of Bungay Rd.	138
	150 ft downstream of Tennant Circle.	140
	Just downstream of Kelley Blvd.	152
	Just upstream of Interstate 95.	164
	Just upstream of Landry Ave.	177
	Just upstream of Kostka Dr.	184
	Just upstream of Hall Dr.	191
Abbott Run	200 ft downstream of Mendon Rd.	78
	740 ft upstream of Mendon Rd.	80
	Just upstream of Cushman Rd.	88
	Just upstream of abandoned railroad.	92
	Just downstream of Hunts Bridge Rd.	93
	Just upstream of Hunts Bridge Rd.	96
	Upstream corporate limits.	101

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

Issued: September 14, 1978

GLORIA M. JIMINEZ,
Federal Insurance Administrator.

[FR Doc. 78-28655 Filed 10-12-78; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-4344]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Township of Cedarville, Menominee County, Mich.; Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 35060 of the FEDERAL REGISTER of August 8, 1978.

EFFECTIVE DATE: August 8, 1978.

FOR FURTHER INFORMATION CONTACT:

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

The following correction are made:

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Cedarville Township Hall, Cedar River, Mich.

Send comments to: Mr. Peter Bardowski, Township Supervisor, Cedarville Township Hall, Cedar River, Mich. 49813.

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

Issued: September 26, 1978.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 78-28879 Filed 10-12-78; 8:45 am]

[4830-01-M]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

[LR-100-78]

INCOME TAX

Regulations Project Relating to the Requirements for Creditable Foreign Taxes

AGENCY: Internal Revenue Service, Treasury.

ACTION: Extension of time for comments.

SUMMARY: This document provides notice of an extension of time for submitting comments concrning the invitation for public comments with respect to the requirements for creditable foreign taxes. The extended deadline for submission of comments is November 27, 1978.

DATE: Written comments must be delivered or mailed by November 27, 1978.

ADDRESS: Send comments to Commissioner of Internal Revenue, Attention: CC:LR:T (LR-100-78), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

David Dolan of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, CC:LR:T, 202-566-3287, not a toll-free call.

SUPPLEMENTARY INFORMATION: By an invitation for public comments published in the FEDERAL REGISTER for Monday, August 28, 1978 (43 FR 38429), comments with respect to the invitation were to be delivered or mailed to the Commissioner of Internal Revenue, Attention: CC:LR:T (LR-100-78), Washington, D.C. 20224, by October 27, 1978. The date by which such comments must be delivered or mailed is hereby extended to November 27, 1978.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the proposed Treasury Directive appearing in the FEDERAL REGISTER for Wednesday, May 24, 1978.

DAVID E. DICKINSON,
Assistant Director, Legislation and Regulations Division.

[FR Doc. 78-29058 Filed 10-12-78; 8:45 am]

[4110-87-M]

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[30 CFR Part 11]

RESPIRATORY PROTECTIVE APPARATUS

Use of Approved Devices

AGENCIES: Mine Safety and Health Administration (MSHA), Department of Labor, and National Institute for Occupational Safety and Health (NIOSH), Center for Disease Control, Public Health Service, Department of Health, Education, and Welfare.

ACTION: Proposed rule.

SUMMARY: This document proposes to extend the cutoff dates for use of certain self-contained breathing apparatus approved under the former Bureau of Mines approval program. Mine operators and others have requested that continued use of this equipment be permitted and have indicated that economic hardship would result in order to replace a major portion of their equipment by the cut-off date now established.

DATES: Comments must be received on or before November 13, 1978.

ADDRESSES: Comments and inquiries may be submitted to: Ms. Mary Flint, Regulations Specialist, National Institute for Occupational Safety and Health, 5600 Fishers Ln., Room 8-11, Rockville, Maryland 20857. Comments will be available for public inspection at this address during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Ms. Mary Flint, phone 301-443-3745.

SUPPLEMENTARY INFORMATION: On March 25, 1972, (37 FR 6244), the Department of Health, Education, and Welfare (HEW) and the Department of Interior jointly adopted Part 11 of Title 30, Code of Federal Regulations, to implement sections 202(h) and 204 of the Federal Coal Mine Health and Safety Act of 1969. Part 11 provides for the testing of occupational respirators and the issuance of joint approvals for those meeting certain requirements for performance and respiratory protection. Until recently, the joint approval program was conducted by the National Institute for Occupational Safety and Health (NIOSH), Center for Disease Control, Public Health Service, HEW, and the Mining Enforcement and Safety Administration (MESA), Department of the Interior. On November 9, 1977, Congress enacted the Federal Mine and Safety and Health Act of 1977 (Pub. L. 95-164). This Act repealed the Federal Metal and Nonmetallic Mine Safety Act and established a single law for all mining operations under an amended Coal Mine Health and Safety Act of 1969. Under the new legislation, the functions of MESA were transferred to the Department of Labor as the Mine Safety Health Administration (MSHA). Except for the transfer of functions, the provisions for joint approval of respirators remain the same.

Prior to the promulgation of part 11 in 1972, respirator approvals were issued by the Bureau of Mines (BOM) of the Department of the Interior. When the new respirator approval regulations were issued in 1972, dates were established which were designed to eliminate older BOM-approved respriators from workplaces in an orderly and reasonable manner, to be replaced with respirators approved under Part 11. At that time, March 31, 1979, was established as the cut-off date for use of self-contained breathing appartus (SCBA) approved under BOM Approval Schedules 13-13E, inclusive. On November 22, 1974, (39 FR 40950), the regulations were amended to establish June 30, 1975, as a cut-off date for purchase of Schedule 13-13E devices which would continue to be approved for use until March 31, 1979. All SCBA purchased after June 30, 1975, must be approved under Part 11 approval requirements. SCBA approved under Part 11 are superior to many of the earlier apparatus because they have low pressure warning devices (remaining service life indicators), higher airflow, and better low temperature operation. However, Schedule 13E approvals and some Schedule 13D approvals are equipped with low pressure warning. This became a requirement in 1968 (Schedule 13E approvals) as a matter of added safety, particularly for firefighters.

Since establishment of the March 31, 1979, cut-off date in 1972, experience has shown that the older BOM-approved devices, when properly maintained, can remain functional for several years. In fact, large numbers of this equipment are still in use by the fire service and in mine rescue operations. If this equipment is maintained in an approved condition so that it will not jeopardize the safety of the wearer and if it is equipped with the added safety feature of a low pressure warning device when used for other than mine rescue operations, NIOSH and MSHA believe there is little risk in permitting its continued use.

Many mine operators and fire service personnel, their representatives, and their programs, have requested that continued use of this equipment be permitted. They have indicated that it would be an economic hardship for them to have to replace by March 1979 a major portion of their equipment which they contend is still functioning properly and safely.

Since there are insufficient data available to justify that continued use of certain BOM-approved SCBA would jeopardize the safety of the respirator user, NIOSH and MSHA have agreed to extend the approved use date. Schedule 13D and 13E devices that are equipped with a remaining service life indicator (low pressure warning) that does not require preadjustment by the wearer would continue to be approved for use until March 31, 1982. In addition, certain Schedule 13 approved devices would continue to be approved for use in mine rescue operations until further notice. Low pressure warning devices would not be required on mine rescue SCBA because the apparatus is examined by the MSHA contends that it has adequate administrative control over the condition of mine rescue apparatus and its continued use for this purpose is justified. The cut-off dates for use of the various respiratory protective equipment are being combined in tabular form in Part 11 for easier reference by the users.

Therefore, it is proposed to amend 30 CFR Part 11 as set forth below.

NOTE.—The Department of Health, Education, and Welfare has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order No. 11949, and OMB Circular A-107.

Dated: August 5, 1978.

HALE CHAMPION,
Acting Secretary of Health, Education, and Welfare.

Dated: October 3, 1978.

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

1. Section 11.2 is revised to read as follows:

§ 11.2 Approved respirators and gas masks.

(a) Respirators, combinations of respirators, and gas masks shall be approved for use in hazardous atomospheres, provided that they are maintained in an approved condition and are the same in all respects as those devices for which a certificate of approval has been issued under this part.

(b) Self-contained breathing apparatus, supplied-air respirators and gas masks approved under the former Bureau of Mines approval program shall continue to be accepted for use in hazardous atmospheres according to the schedule set forth below: *Provided* they (1) were fabricated, assembled or built under an approval or any modification thereof issued by the U.S. Bureau of Mines, Department of the Interior; and (2) were purchased on or before the date specified therein; and (3) are maintained in an approved condition according to this part.

Type of device	Use	Bureau of Mines approved devices	Purchased on or before—	Approved for use until—
Self-contained breathing apparatus	All uses as permitted or required by regulation.	Schedule 13-13E inclusive	June 30, 1975	Mar. 31, 1979
	Use in mine rescue efforts only.	Approval Nos. 1303, 1303S, 1307, 13D-14, 13D-15, 13D-16, 13E-25, and 13E-26.	do	(1)
	For uses other than mine rescue as permitted or required by regulation.	Schedule 13D and 13E devices that are equipped with a remaining service life indicator which operates without preadjustment by the wearer.	do	Mar. 31, 1982
Supplied air respirators	All uses as permitted or required by regulation.	Schedule 19B (dated Apr. 19, 1955)	do	Mar. 31, 1980
Gas masks	do	Schedule 14F (dated Apr. 23, 1955)	Date to be established.	(2)

[1] Further notice.
[2] Date to be established.

2. Section 11.2-1 is deleted from the Code of Federal Regulations and § 11.2-2 is redesignated as § 11.2-1.

§ 11.2-1 [Redesignated from § 11.2-2]

[FR Doc. 78-28702 Filed 10-11-78; 8:45 am]

[4510-43-M]

[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 originally given until October 9, 1978, to submit comments and data and the comment period was extended to October 17, 1978, by a notice in the FEDERAL REGISTER of Tuesday, September 26, 1978 (43 FR 43475). The comment period is further extended to November 3, 1978.

DATES: Comments must be received on or before November 3, 1978.

ADDRESS: Comments should be sent to Frank A. White, Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 631, 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 November 3, 1978, because of additional 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 17, 1978, is greatly appreciated and they may submit additional comments within the extended time.

Dated: October 5, 1978.

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

[FR Doc. 78-28623 Filed 10-6-78; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 988-2]

[40 CFR Parts 6, 122, 123, 124, 125, 151]

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

AGENCY: Environmental Protection Agency.

ACTION: Notice of extension of comment period.

SUMMARY: The Environmental Protection Agency (EPA) is extending the comment period for the national pollutant discharge elimination system (NPDES) proposed rules (43 FR 37078-37134, Aug. 21, 1978) for 30 days until November 20, 1978. EPA is also extending the comment periods for the spill prevention control and countermeasure proposed rules (43 FR 39276-39280, Sept. 1, 1978) and the best management practices proposed rules (43 FR 39282-39284, Sept. 1, 1978) until November 20, 1978.

DATE: Comment period ends November 20, 1978.

FOR FURTHER INFORMATION CONTACT:

Edward A. Kramer, Office of Water Enforcement (EN-336), Environmental Protection Agency, Washington, D.C. 20460, 202-755-0750.

SUPPLEMENTARY INFORMATION: On August 21, 1978, the Environmental Protection Agency (EPA) proposed a rule (43 FR 37078-37134) which would extensively revise existing regulations governing the national pollutant discharge elimination system (NPDES) program. The revisions were proposed as 40 CFR, Parts 122-125 with a 60-day comment period ending October 20, 1978.

On September 19 and 21, 1978, EPA held public meetings to discuss the proposed NPDES rule. At these public

meetings and in letters submitted to EPA commenting on the proposed rules, many commenters indicated that more time was needed to properly assess and comment on the rules. Many commenters indicated that a 30-day extension of the comment period woud be sufficient.

EPA recognizes the complexity and sheer volume of changes to the NPDES program included in the NPDES proposed rule, and is sensitive to commenters' concerns that additional time is necessary to analyze the proposed rules. EPA, therefore, is extending the comment period for 30 days—until November 20, 1978—which will meet both the public's concerns and, at the same time, assure that issuance of the final rule will not be unduly delayed.

EPA is also extending the comment period for two other proposed rules which are integrally related to the proposed NPDES rule. They are:

(a) Proposed requirements for spill prevention control and countermeasure plans to prevent discharges of hazardous substances from certain facilities (43 FR 39276-39280, Sept. 1, 1978); and

(b) Criteria and standards for imposing best management practices for ancillary industrial activities (43 FR 39282-39284, Sept. 1, 1978).

The comment periods for these two proposed rules are both presently scheduled to close on October 31, 1978. This date is now extended to November 20, 1978, to coincide with the new closing date for the proposed NPDES rules.

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

JEFFREY G. MILLER,
Acting Assistant Administrator for Enforcement.

OCTOBER 10, 1978.

[FR Doc. 78-29061 Filed 10-12-78; 8:45 am]

[6560-01-M]

[40 CFR Part 65]

[FRL 986-4]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Notice of Proposed Approval of an Administrative Order Issued by the Virginia State Air Pollution Control Board to Jewell Coal & Coke Co., Plant No. 2

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve an administrative order issued by the Virginia State Air Pollution Control Board to Jewell Coal & Coke Co. The order requires the company to bring air emissions from its plant No. 2 coke ovens in Vansant, Va. into compliance with certain regulations contained in the federally approved Virginia State implementation plan (SIP) by June 30, 1979. Because the order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the Federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the order. The purpose of this notice is to invite public comment on whether EPA should approve the order as a delayed compliance order.

DATE: Written comments must be received on or before November 13, 1978.

ADDRESSEES: Comments should be submitted to Director, Enforcement Division, EPA, Region III, 6th and Walnut Streets, Philadelphia, Pa. 19106. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT.

Mr. Gary Gross at the address above or telephone 215-597-8907.

SUPPLEMENTARY INFORMATION: Jewell Coal & Coke Co. operates a nonrecovery coke oven plant at Vansant, Va. The order under consideration addresses emisions from the 45 sole flue ovens known as plant No. 2 at the facility, which are subject to §§ 4.02.01 and 4.04.01 of the Virginia regulations for the control and abatement of air pollution as approved in the Virginia SIP. The regulations limit the emissions of particulate and visible emissions, and are part of the Federally approved Virginia State implementation plan. The order required final compliance with the regulation during charging, pushing, and quenching portions of the cycle by June 30, 1979 through installation of common tunnel afterburners, split sole flues, a state-of-the-art quench tower using clean water make-up, and a pushing emission control device. This order does not apply to coking offgas emissions from plant No. 2.

Because this order has been issued to a major source of particulate emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a delayed compliance order under section 113(d) of the Clean Air Act (the Act). EPA may approve the order only if it satisfies the appropriate requirements of this subsection. Based on information presently available, EPA believes all statutory requirements have been satisfied. Section 13 of the State order states, "The Board may modify this order for good cause shown by Jewell, or on its own motion after notice to Jewell and an opportunity for a hearing". In accordance with section 113(d)(2) of the Act, no such modification shall take effect until such time as the Administrator determines that such modification satisfies the requirements of the Act.

If the order is approved by EPA, source compliance with its terms would preclude Federal enforcement action under section 113 of the Act against the source for violations of the regulation covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the Act (section 304) would be similarly precluded. If approved, the order would also constitute an addition to the Virginia SIP.

All interested persons are invited to submit written comments on the proposed order. Written comments received by the date specified above will be considered in determining whether EPA may approve the order. After the public comment period, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the order in 40 CFR Part 65.

The provisions of 40 CFR Part 65 [1] will be promulgated by EPA soon, and will contain the procedure for EPA's issuance, approval, and disapproval of orders under section 113(d) of the Act. In addition, part 65 will contain sections summarizing orders issued, approved, and disapproved by EPA. (A prior notice proposing regulations for part 65, published at 40 FR 14876 (April 2, 1975), will be withdrawn, replaced by a notice promulgating these new regulations.)

(42 U.S.C. 7413, 7601.)

Dated: October 2, 1978.

JACK J. SCHRAMM,
Regional Administrator, Region III.

[FR Doc. 78-28835 Filed 10-12-78; 8:45 am]

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[1] Published at 43 FR 44522, Sept. 28, 1978.

[6560-01-M]

[40 CFR Part 162]

[FRL 971-7; OPP—30007]

PESTICIDE PROGRAMS

Exemption of Pesticides That Are Also New Drugs From Requirements of the Federal Insecticide, Fungicide, and Rodenticide Act

AGENCY: Office of Pesticide Programs, EPA.

ACTION: Proposed rulemaking.

SUMMARY: The intent of this proposed rulemaking is to exempt those pesticides offered solely for use on humans that are also new drugs within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act from the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended in 1972 and 1975. (Pub. L. 92-516, 86 Stat. 973; Pub. L. 94-140, 89 Stat. 751; 7 U.S.C. 136 et seq.) (FIFRA.) The proposed rulemaking also clarifies the policy of EPA relative to the registration of pesticide products that are not new drugs or new animal drugs. This action is taken because of the similarities of the registration processes that are used for registering new human drugs by the EPA and the FDA. The elimination of review of these new drug product applications by EPA is intended to lessen the duplication of time and resources by both agencies and the sponsors of these products.

DATES: Proposed effective date: Thirty (30) days from the date of publication of the final regulation.

Comments must be received on or before sixty (60) days from date of publication.

ADDRESS: Interested persons are invited to submit written comments with reference to this notice to the Federal Register section, Technical Services division (WH-569), Office of Pesticide Programs, Environmental Protection Agency, Room 401, East Tower, 401 M Street SW., Washington, D.C. 20406. The comments should bear the identifying notation OPP—30007. All written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Herbert Harrison, Registration Division (WH-567), Office of Pesticide Programs, EPA, 202-426-4110.

SUPLEMENTARY INFORMATION: The intent of pesticide regulation under the amended FIFRA is to insure that pesticides are safe and effective for their intended uses and to prevent unreasonable adverse effects to man, other animals, and the environment from pesticide usage. To effect this protection, a pesticide product must be registered with EPA in accordance with the provisions of FIFRA. The applicant must show that his product will meet the registration requirements by producing appropriate toxicity, chemical, and efficacy data. Based on these data and the provisions of the FIFRA, labeling must appear on the pesticide product in a manner that will assure proper use and minimize any hazards associated with the use of the product.

There are certain pesticide products that also fall within the statutory definition of "drug" in the Federal Food, Drug and Cosmetic Act (FFDCA) and, as such, are also subject to the jurisdiction of the Food and Drug Administration (FDA), U.S. Department of Health, Education, and Welfare (DHEW). In fulfilling its responsibilities, FDA protects the public health of the Nation by assuring that drug products intended for use in man or other animals are safe, effective, and properly labeled and that residues of drugs in edible products derived from animals treated with such drugs are safe for consumption.

For products that are new drugs for use on humans (hereinafter "new drugs for human use") or new animal drugs, the manufacturer of the product is required to submit an application to FDA for review and approval prior to the marketing of the product. The purpose of the application is to provide safety and effectiveness data and other information necessary to satisfy the requirements of the FFDCA (21 U.S.C. 355 and 360b) as set forth in 21 CFR Part 314 of the human drug regulations and in 21 CFR Part 514 of the animal drug regulations.

A new drug, as defined by section 201(p), and a new animal drug, as defined by section 201(w) of the FFDCA, must be approved by FDA before it can be marketed. Any drug that does not fall within the definition of a new drug or new animal drug does not require approval from FDA prior to marketing, but the product must, among other things, be safe and effective for its intended use and not be adulterated or misbranded within the meaning of the FFDCA.

Interagency Agreements Between EPA and FDA

For those products that fall within the applicable statutory definitions of both "pesticide" and "drug" and therefore come under the jurisdiction of both EPA and FDA, the two agencies entered into an agreement describing the procedures to be followed in the joint review and approval of these products. These procedures were published in the Federal Register of December 22, 1971 (36 FR 24234). Item 3 of the interagency agreement was intended to revolve the jurisdictional overlap which resulted from the two agencies' possessing authority and responsibility for regulating the same products.

The agreement informed manufacturers seeking approval of these products: (1) Which Agency has primary jurisdiction; (2) that the product will be referred to the other Agency for a decision under its law; and (3) that approval for marketing the product will not be granted unless both Agencies approve the product under their respective authorities.

Subsequently, other jurisdictional problems were identified with respect to the review and approval of products that are intended to be used as animal drugs and pesticides. These problems, in part, identified the need for further elaboration of the interagency procedures; thus, an amendment to item 3 of the 1971 interagency agreement was developed and published in the Federal Register of September 6, 1973 (38 FR 24233). The amendment provided more information on each Agency's responsibilities.

Since publication of the agreement, many of the problems that were associated with the dual jurisdiction of pesticide products have been resolved. However, instances of confusion and delays in the interagency processing of applications for approval of products continue to occur. It is for this reason that FDA and EPA decided to jointly reevaluate the procedures in item 3 of the interagency agreement and its amendment.

New Drugs for Human Use

The reevaluation indicated that in most, if not all respects, the requirements for obtaining registration of a pesticide under FIFRA parallel those for approval of a new drug for human use under the FFDCA. An applicant seeking approval of a new drug under the FFDCA [21 U.S.C. 355(b)] must submit to FDA:

(1) Full reports of investigations which have been made to show whether or not the drug is safe for use and whether it is effective in use;

(2) A full list of the articles used as components of the drug;

(3) A full statement of its composition;

(4) A full description of the methods used in, and the facilities and controls used for, the manufacture, processing and packaging of the drug;

(5) Samples of the drug and of the articles used as components thereof as FDA may require; and

(6) Specimens of the labeling proposed to be used for the drug.

Similar information must be submitted to FDA for approval of new animal drugs.

The reevaluation further indicated that the criteria followed by FDA in the approval (or disapproval) of the new drug application are generally comparable to those of EPA for pesticide registration. These include consideration by FDA of the environmental effects that may result from the use of the drug in accordance with the National Environmental Policy Act of 1969 as set forth in 21 CFR Part 6.

On the basis of the above, EPA and FDA have concluded that the dual review of pesticide/new drug products offered solely for human use represents an expensive duplication of time and resources for both the Agencies and the sponsors of these products without any significant increase in benefits to public health and/or to the environment. It is further concluded that regulation of these products solely by FDA under the FFDCA would adequately serve the intent of FIFRA.

Therefore, pursuant to section 25(b)(1) of the amended FIFRA, the Administrator proposes to exempt from the requirements of FIFRA any pesticide that is offered solely for use on humans that is also a new drug as defined by section 201(p) of the FFDCA. Accordingly, 40 CFR 162.5(b) will be amended to include this proposed exemption. This will give FDA the sole authority to regulate those products previously regulated jointly by EPA and FDA which are considered to be both new drugs offered solely for human use and pesticides. Such products will therefore be submitted to FDA for review and approval under the new drug procedures of section 505 of the Federal Food, Drug, and Cosmetic Act.

Drugs for Human Use for Which an Approved New Drug Application (NDA) is not Required

Drugs for human use which are not new drugs within the meaning of section 201(p) of the FFDCA that are also pesticides will not be exempt from EPA registration, except when the Secretary of DHEW has established by regulation the conditions whereby the drugs are generally recognized as safe and effective and not misbranded. Since these drug products do not require FDA approval prior to marketing, they will continue to be subject to EPA regulation until such time as FDA issues specific final regulations for these drug products. No such regulations exist at this time. Therefore, in the interim, registration with EPA under FIFRA will provide for premarketing clearance and control of these products.

Pesticides Offered Concurrently for Use on Both Humans and Inanimate Objects

The proposed exemption does not apply to those pesticide/human drug products that are offered concurrently, for both human and nonanimal use, e.g., a disinfectant solution offered concurrently for use both on humans and on inanimate objects. Because registration under FIFRA provides premarketing clearance and control of the product, FDA and EPA agree that these products should continue to be subject to EPA regulation. However, any such product submitted to EPA will still be referred to FDA prior to EPA registration. FDA will then review the labeling and formulation accompanying the submission and determine if the pesticide/drug requires an approved new drug application. FDA will notify EPA of those products that do have an approved NDA and EPA will then make its decision regarding registration. FDA will also notify EPA of those products that require an NDA but do not have approval. EPA will withhold its registration of such unapproved pesticide/new drug products until an approved NDA has been obtained.

As a matter of policy, EPA will not grant registration if the product does not comply with FDA requirements under the FFDCA. Accordingly, 40 CFR 161.7(d)(1)(vi) is also proposed to be amended to further clarify EPA's handling of applications for the registration of pesticides that are drugs, but are not "new drugs."

Pending a final regulation on the proposed exemption, EPA and FDA will continue to follow the procedure set forth in the interagency agreement in the reviewing and approving of products that are both pesticides and human drugs. When a final rule is issued, the interagency agreement will be amended accordingly.

Animal Drugs

In June 1975, a committee within the House of Representatives held a hearing concerning EPA pesticide regulation. This hearing dealt in part with the problems that EPA and FDA were experiencing concerning the joint regulation of pesticides that are also new animal drugs. As a result of that hearing, Pub. L. 94-140, an amendment to FIFRA, was enacted which among other things exempts new animal drugs from the definition of "pesticides" under FIFRA. This amendment gives FDA sole authority to regulate those products previously regulated jointly by EPA and FDA which are considered to be both a new animal drug and a pesticide. Such products must therefore now be submitted only to FDA for review and approval as new animal drug applications (NADA's).

Products which are not new animal drugs that are also pesticides will not be exempt from the definition of "pesticides" under this amendment, except for products that have been determined by the Secretary of DHEW not to be a new animal drug by a regulation establishing conditions for use of the product. Since these "not new animal drugs" do not require FDA approval prior to marketing, they will continue to be subject to EPA regulation until such time as FDA issues specific regulations for these products. In the interim, registration with EPA under FIFRA will provide for premarketing clearance and control of these products.

In any case, however, any pesticide product with animal drug claims that is submitted to EPA will be referred to FDA prior to EPA registration. FDA will than review the labeling and formula accompanying the submission and determine the status of the animal drug (new or not new). FDA will notify EPA of those products that are determined to be new animal drugs, and EPA will exempt these drugs from its registration requirements. For not new animal drugs, FDA will send its comments to EPA on the acceptability of the products as formulated and labeled. EPA will then make its decision regarding registration. As a matter of policy, EPA will not grant registration if the product does not comply with FDA requirements under the FFDCA. As discussed above, EPA proposes to amend section 162.7(d)(1)(vi) to clarify this policy.

Scientific Advisory Panel and USDA Review

On May 19, 1977, a copy of this proposed rule was transmitted to the FIFRA Scientific Advisory Panel (SAP) as required by section 25(d). On July 26, 1977, the SAP waived scientific review and comment on the proposed rule.

On June 9, 1977, a copy of this proposed rule was sent to the Secretary of Agriculture for comment as required by section 25(a)(2)(B). On July 6, 1977, the Secretary's designee replied that USDA had reviewed the document and had no objection to its publication in the Federal Register for comment.

Pursuant to section 25(a)(3) of the FIFRA, a copy of the proposed rule was forwarded to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture and Forestry of the Senate on June 14, 1977.

EXECUTIVE ORDER 12044

This rule is a "minor" regulation under EPA's proposal for implementing Executive Order 12044, "Improving Government Regulations" (43 FR 29891).

Dated: October 6, 1978.

DOUGLAS M. COSTLER,
Administrator.

AUTHORITY: Sections 3 and 25(b) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (Pub. L. 92-516, 86 Stat. 973; Pub. L. 94-140, 89 Stat. 751; 7 U.S.C. 136 et seq.).

The Administrator proposes to amend 40 CFR 162 by redesignating § 162.5(b)(6) as new § 162.5(b)(7), and by adding a new § 162.5(b)(6), to read:

* * * * *

§ 162.5 Pesticides that are also new drugs for human use.

* * * * *

(b) * * *

(6) a pesticide product that is offered solely for human use and is also (i) a new drug within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act, or (ii) an article that has been determined by the Secretary of Health, Education, and Welfare not to be a new drug by a regulation establishing conditions of use for the article, is exempt from the requirements of the FIFRA. Such products are subject solely to regulation by the Food and Drug Administration in accordance with the Federal Food, Drug, and Cosmetic Act and implementing regulations set forth in Title 21 of the Code of Federal Regulations.

* * * * *

§ 162.7 [Amended]

The Administrator also proposes to amend 40 CFR part 162 by revising § 162.7(d)(1)(vi) to read:

* * * * *

EPA has been notified by FDA that the product complies with the requirements of the Food and Drug Administration if the product, in addition to being a pesticide, is a "drug" within the meaning of section 201(g) of that Act, but is not a "new drug" or "new animal drug" under sections 201(p) and 201(w) respectively of the Federal Food, Drug, and Cosmetic Act.

* * * * *

[FR Doc. 78-28837 Filed 10-12-78; 8:45 am]

[4110-12-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

[41 CFR Parts 3-7 and 3-57]

WITHHOLDING OF CONTRACT PAYMENTS

AGENCY: Department of Health, Education, and Welfare.

ACTION: Proposed rule.

SUMMARY: The Office of the Secretary, Department of Health Education, and Welfare is proposing to establish policy regarding the withholding of contract payments if a contractor fails to comply with contract delivery terms and conditions. The proposed amendments have been developed as a result of the Secretary's memorandum of May 18, 1977, entitled "Actions Required to Correct Major Deficiencies in the Contracting and Grant Processes." In the memorandum, the Secretary cited the failure of the contracting officer to insure that contracts are properly performed. In some instances, it was found that the contractor was remiss in complying with the contract delivery terms and conditions, and the Department was not initiating remedial action. Therefore, the Department is proposing the amendments to insure that supplies, products, or services that are contracted for are received, and that contracts requiring the submission of progress or other reports are submitted when required by the contract.

DATE: Comments must be received on or before November 27, 1978.

ADDRESS: Any person or organization wishing to submit data, views, or comments pertaining to the proposed amendments may do so by filing them, in duplicate, with E. S. Lanham, Division of Procurement Policy and Regulations Development, OGP-OASMB-OS, room 539H, Hubert H. Humphrey Building, Department of Health, Education, and Welfare, Washington, D.C. 20201.

FOR FURTHER INFORMATION, CONTACT:

E. S. Lanham, phone 202-245-6347.

SUPPLEMENTARY INFORMATION: The policy is to be established under a new Subpart 3-57.1, Contract Monitoring, under a new Part 3-57, Contract Administration.

Appropriate contract clauses have been developed for use with the withholding of contract payments policy and are proposed to be added under Part 3-7, Contract Clauses.

The Department of Health, Education, and Welfare 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.

It is therefore proposes to amend 41 CFR Chapter 3 in the manner set forth below.

Dated: October 5, 1978.

E. T. RHODES,
Deputy Assistant Secretary for Grants and Procurement.

1. Part 3-7, Contract Clauses, Subpart 3-7.50, Special Contract Clauses, is amended to add the following:

* * * * *

§ 3-7.5023 Withholding of contract payments.

The following clause is to be included in all solicitations, resultant contracts, and contract modifications effecting supplemental agreements as specified in § 3-57.104-3(a):

WITHHOLDING OF CONTRACT PAYMENTS

Notwithstanding any other payment provisions of this contract, failure of the contractor to submit required reports when due, or failure to perform or deliver required work, supplies, or services, will result in the withholding of payments under this contract unless such failure arises out of causes beyond the control, and without the fault or negligence of the contractor as defined by the clause entitled "Excusable Delays," "Default," "Termination," or "Termination for Default," as applicable. The Government shall promptly notify the contractor of its intention to withhold payment of any invoice or voucher submitted.

§ 3-7.5024 Excusable delays.

The following clause is to be included in solicitations and contracts (and contract modifications effecting supplemental agreements) as specified in § 3-57.104-3(b)(3):

EXCUSABLE DELAYS

Except with respect to failures of subcontractors, the contractor shall not be considered to have failed in performance of this contract if such failure arises out of causes beyond the control and without the fault or negligence of the contractor.

Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather, but in every case the failure to perform must be beyond the control and without the fault or negligence of the contractor. If the failure to perform is caused by the failure of a subcontractor to perform, and if such failure arises out of causes beyond the control of both the contractor and subcontractor, and without the fault or negligence of either or them, the contractor shall not be deemed to have failed in performance of this contract, unless (a) the supplies or services to be furnished by the subcontractor were obtainable from other

sources, (b) the contracting officer shall have ordered the contractor in writing to procure such supplies or services from such other sources, and (c) the contractor shall have failed to comply reasonably with such order. Upon request of the contractor, the contracting officer shall ascertain the facts and extent of such failure and, if he shall determine that any failure to perform was occasioned by any one or more of the said causes, the delivery schedule shall be revised accordingly, subject to the rights of the Government under the termination clause hereof. (As used in this clause, the terms "subcontractor" and "subcontractors" mean subcontractor(s) at any tier.)

2. Part 3-57, Contract Administration, is hereby established. Under Part 3-57, the table of contents, scope of part, and Subpart 3-57.1, Contract Monitoring, are also established.

3-57—CONTRACT ADMINISTRATION

Sec.
3-57.000 Scope of part.

Subpart 3-57.1—Contract Monitoring

3-57.104 Withholding of contract payments.
3-57.104-1 Policy.
3-57.104-2 Applicability.
3-57.104-3 Contract clauses.

§ 3-57.000 Scope of part.

This part sets forth responsibilities, policies, and procedures to be followed by Departmental personnel in the administration of contracts.

Subpart 3-57.1—Contract Monitoring

§ 3-57.104 Withholding of contract payments.

§ 3-57.104-1 Policy.

It is the Department's policy that:

(a) All solicitations and resultant contracts contain:

(1) A withholding of contract payments clause, and

(2) An excusable delays clause or a clause which incorporates the definition of excusable delays.

(b) A separate notice to the contractor highlighting its agreement with the withholding of contract payments clause be included in the transmittal or cover letter of the contract.

(c) No contract payment is to be made as long as:

(1) Any report required to be submitted by the contractor is overdue, or

(2) The contractor fails to perform or deliver work or services required by the contract.

(d) A 10-day notice is to be issued, or appropriate termination action is to be initiated, for any failure in the contractor's performance stated under the preceding paragraph (c).

§ 3-57.104-2 Applicability.

The foregoing policy applies to all solicitations and resultant contracts. The policy is to be applied to all contract modifications effecting supplemental agreements which did not contain the policy requirements in the basic contract.

§ 3-57.104-3 Contract clauses.

(a) The contracting officer is to include the withholding of contract payments clause in § 3-7.5023 in the special provisions of all solicitations and resultant contracts, and in contract modifications effecting supplemental agreements when the basic contract did not contain the clause.

(b) The contracting officer is to ensure that all solicitations and resultant contracts, including contract modifications effecting supplemental agreements, contain a contract clause which defines the term excusable delays.

(1) If the term is defined in another clause which is to be included in the solicitation and resultant contract, as, for example, in article 5 of Standard Form 23-A, General Provisions (Construction Contract), or article 11 of Standard Form 32, General Provisions (Supply Contract), the contracting officer need not take further action.

(2) If the solicitation and resultant contract are to contain a termination for default clause where the term excusable delays is not defined, the contracting officer is to include the excusable delays clause cited in § 1-8.708.

(3) If the solicitation and resultant contract are to contain neither a termination for default clause nor a definition of the term excusable delays, the contracting officer is to include the clause in § 3-7.5024 in both the solicitation and resultant contract.

[FR Doc. 78-29101 Filed 10-12-78; 8:45 am]

[4110-92-M]

Office of Human Development Services

[45 CFR Part 1370]

STATE VOCATIONAL REHABILITATION PROGRAMS

Evaluation Standards

AGENCY: Office of Human Development Services, DHEW.

ACTION: Notice of decision to revise regulations.

SUMMARY: The proposed Rehabilitation Services Administration regulations would revise, simplify, and recodify evaluation standards used to evaluate State vocational rehabilitation programs. Compliance with these standards is determined annually by the Secretary in order to renew or supplement financial assistance authorized under the Rehabilitation Act.

The proposed revisions will be based upon use and experience with the present regulations. They will:

Clarify ambiguities regarding various terms,

Eliminate errors in the present standards,

Remove confusion regarding the purpose and use of the standards,

Eliminate unnecessary standards, data elements and performance levels.

The proposed regulations will follow Operation Common Sense principles, the HEW initiative to revise, simplify, and recodify regulations to promote better public understanding of regulations.

FOR FURTHER INFORMATION CONTACT:

Rodney Pelton, Ph. D., Director, Division of Evaluation, Rehabilitation Services Administration, Room 2324, Mary E. Switzer Building, 330 C Street SW., Washington, D.C. 20201, 202-245-0688.

Dated: October 6, 1978.

ARABELLA MARTINEZ,
Assistant Secretary for Human Development Services.

[FR Doc. 78-29046 Filed 10-12-78; 8:45 am]

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 2 and 87]

[Gen. Docket No. 78-323; RM-3058; FCC 78-699]

USE OF AERONAUTICAL ADVISORY FREQUENCIES BY AERONAUTICAL UTILITY MOBILE STATIONS LOCATED AT CERTAIN LANDING AREAS WHICH DO NOT HAVE A CONTROL TOWER OR FAA FLIGHT SERVICE STATION

Proposed Authorization

AGENCY: Federal Communications Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Federal Communications Commission proposes to amend the rules to permit aeronautical advisory frequencies to be utilized by certain ground vehicles at landing areas which are served by an aeronautical advisory station (unicom), but which do not have a control tower or FAA flight service station in operation. The FAA requested that this proposed rule change be considered. The additional communications capability of the eligible vehicles is intended to improve aviation safety at the many airports affected.

DATES: Comments must be received on or before November 15, 1978, and Reply Comments must be received on or before November 27, 1978.

ADDRESSES: Federal Communication, Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Robert H. McNamara, Safety and Special Radio Services Bureau, 202-632-7197.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of parts 2 and 87 of the rules to authorize the use of aeronautical advisory frequencies by aeronautical utility mobile stations located at certain landing areas which do not have a control tower or FAA flight service station, Gen. docket No. 78-323, RM 3058.

Adopted: September 26, 1978.

Released: October 12, 1978.

SUMMARY

1. In this notice we are proposing to amend the Commission's rules to permit certain ground vehicles which routinely operate on airports that have no functioning control tower or FAA flight service station, but which are served by an aeronautical advisory station, to utilize aeronautical advisory frequencies for safety related communications.

BACKGROUND

2. The Commission has received a letter from the Federal Aviation Administration (FAA) requesting that the rules be amended to allow FAA vehicles and certain other ground vehicles to utilize aeronautical advisory frequencies while operating on landing areas not served by a control tower or FAA flight service station. FAA feels that safety and operating efficiency would be enhanced at these airports by permitting vehicles used for inspecions, maintenance, emergencies and the like, to communicate with the local aeronautical advisory station (unicom) when operating on the airfield. Primarily, these vehicles would be expected to monitor the appropriate frequency and only transmit or acknowledge relevant safety information. FAA recommends that communications by such vehicles, if authorized, be subject to the supervision of the advisory station operator. Also it is recommended that nonsafety communications, such as dispatching, not be permitted. We note that from time to time the Commission has received, and in appropriate cases granted, requests for waivers to provide similar communications capabilities for certain ground vehicles operating on nontower airfields.

DISCUSSION

3. Presently, aeronautical advisory frequencies are limited to the necessities of safe and expeditious operation of private aircraft, such as runway conditions, types of fuel available, wind conditions, weather information and dispatching. Further, only one aeronautical advisory station is permitted on a landing area.[1] Due to congestion problems on the then one available aeronautical advisory frequency at uncontrolled airports, the Commission amended the rules to provide two additional frequencies for advisory purposes at these landing areas.[2] In view of the nature of this radio service and the potential that increased traffic would negate the beneficial effects of the two additional frequencies recently provided, we are cautious regarding the grant of broader access to the advisory frequencies.

4. However, it appears that with appropriate safeguards, as discussed below, the FAA recommended rule change would provide an added safety feature at many uncontrolled airports without appreciably increasing message traffic on the advisory frequencies. Therefore, we propose to amend the rules substantially as requested by FAA, to permit FAA vehicles and aeronautical utility mobile stations to utilize aeronautical advisory frequencies on a noninterference basis, at airports which have an aeronautical advisory station but no control tower or FAA flight service station (FSS). Also, at landing areas which have a part-time control tower and/or part-time FSS, utility mobile stations will be permitted to use advisory frequencies during the hours that neither the control tower nor FSS is in operation, on the same basis as utility mobile stations at nontower, non-FSS airfields. Communications by utility mobile stations on advisory frequencies will be limited to the necessities of safety (such as runway conditions and hazards on the landing area). Further, these stations will be required to discontinue transmission when so requested by the advisory station operator.

5. Eligibility for authority to operate utility mobile stations will be limited to those applicants able to demonstrate a legitimate need and authority to operate a ground vehicle on the particular airport movement area. An airport movement area is defined as the runways, taxiways and other areas which are utilized for taxiing, takeoff and landing of aircraft, exclusive of loading ramps and parking areas. For example, the use of ground vehicles for inspection of airport movement areas by airport operators and state and local governmental organizations, and the various emergency and support vehicles, such as crash trucks and snowplows, customarily used on an airfield, would satisfy the proposed eligibility requirements. On the other hand, fuel trucks which normally operate only on ramp and parking areas, serve as an example of the type of vehicle not contemplated to be eligible. Our intention in proposing this rule amendment is to provide a means for vehicles which routinely operate on a nontower, non-FSS landing area to monitor the advisory frequency and communicate when safety considerations so dictate.

PROPOSAL

6. Accordingly, we propose to amend §§ 2.106, 87.257 and subpart J of part 87 of the Commission's rules to permit aeronautical advisory frequencies to be utilized on a noninterference basis by FAA vehicles and aeronautical utility mobile stations authorized to operate at landing areas having an aeronautical advisory station and either a part-time or no control tower or FAA flight service station.

7. The proposed amendments to the Commission's rules, as set forth below, are issued pursuant to the authority contained in sections 4(i) and 303(b), (c), (d) and (r) of the Communications Act of 1934, as amended.

COMMENTS

8. Pursuant to the applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before November 15, 1978, and reply comments on or before November 27, 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 this proceeding, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this notice.

9. In accordance with the provisions of § 1.419 of the Commission's rules, an original and 5 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.

10. Regarding questions on matters covered in this document contact Robert McNamara, 202-632-7107.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

Parts 2 and 87 of chapter I of title 47 of the Code of Federal Regulations are amended as follows:

[1] This restriction has been retained in the rules since the inception of the aeronautical advisory service. As indicated in a report prepared by Special Committee 113 of the Radio Technical Commission for Aeronautics (Document No. DO-129, November 23, 1965) such a limitation is necessary for safety, legal and technical considerations.

[2] Report and order, docket No. 20123, FCC 77-253, adopted April, 1977; 42 FR 20469, 64 FCC 2d 573.

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

In Section 2.106 footnote US31 is amended to read as follows:

§ 2.106 Table of Frequency Allocations.

* * * * *

U.S. FOOTNOTES

* * * * *

US31 Except as provided below the band 121.9375-123.0875 MHz is for use by private aircraft stations.

The frequencies 122.700, 122.725, 122.750, 122.800, 122.950, 122.975, 123.000, 123.050 and 123.075 MHz may be assigned to aeronautical advisory stations. In addition, at landing areas having a part-time or no airdrome control tower or FAA flight service station, these frequencies may be assigned on a secondary noninterference basis to aeronautical utility mobile stations, and may be used by FAA ground vehicles for safety related communications during inspections conducted at such landing areas. * * *

* * * * *

PART 87—AVIATION SERVICES

1. In § 87.257, paragraph (d)(5) is added to read as follows:

§ 87.257 Scope of service.

* * * * *

(d) * * *

(5) Aeronautical advisory stations may communicate with aeronautical utility mobile stations and FAA ground vehicles, concerning runway conditions and safety hazards on the landing area when neither an airdrome control tower nor FAA flight service station is in operation. (Transmissions by aeronautical utility mobile stations are subject to the control of the aeronautical advisory station to the extent that communications by ground vehicles must be discontinued when so requested by the aeronautical advisory station).

* * * * *

2. Section 87.431 is amended to read as follows:

§ 87.431 Frequencies available.

(a) At landing areas having an airdrome control tower or an FAA flight service station, the frequencies 121.600 through 121.925 MHz listed in § 87.410(a) are available to aeronautical utility mobile stations. The other frequencies listed in § 87.401(a) may be assigned to utility mobile stations on such landing areas only after FCC coordination with FAA. The frequency that will be assigned to the utility mobile station at an airport served by a control tower or flight service station, is the frequency that is used by the control tower for ground traffic control or the flight service station to communicate with ground vehicles.

(b) In addition to the frequencies described in paragraph (a) of this section, at landing areas which have a part-time airdrome control tower or part-time FAA flight service station and an aeronautical advisory station, the frequency assigned to the advisory station is available on a noninterference basis to aeronautical utility mobile stations. However, utility mobile stations may transmit on the advisory frequency only when the control tower or flight service station has ceased operations.

(c) At landing areas which have an aeronautical advisory station but no airdrome control tower or FAA flight service station, the frequency assigned to the advisory station is available on a noninterference basis to aeronautical utility mobile stations. (The frequencies available for assignment to aeronautical advisory stations are described in § 87.253.)

3. Section 87.432 is amended to read as follows:

§ 87.432 Eligibility.

(a) Authorization to operate an aeronautical utility mobile station on the frequencies described in § 87.431(a) will be issued only for operation at landing areas having an airdrome control tower or FAA flight service station.

(b) Authorization to operate an aeronautical utility mobile station on an aeronautical advisory frequency will be issued only for operation at landing areas having an aeronautical advisory station and either a part-time or no airdrome control tower or FAA flight service station. In addition, an applicant must: (1) Demonstrate a need to routinely operate a ground vehicle on the airport movement area (the airport movement area is defined as the runways, taxiways and other areas which are utilized for taxiing, takeoff and landing of aircraft, exclusive of loading ramp and parking areas); (2) identify the vehicle in which the station is to be located; and (3) either attach a statement that the applicant is the airport owner or operator, or a state or local governmental aeronautical agency; or attach a statement from the airport owner of operator granting permission to operate the subject vehicle(s) on the specified airport movement area.

4. Section 87.433 is amended to read as follows:

§ 87.433 Scope of service.

(a) Communications by an aeronautical utility mobile station at a landing area which has an airdrome control tower or FAA flight service station in operation, are limited to the management of ground traffic at the airport.

(b) Aeronautical utility mobile stations which operate on the aeronautical advisory station frequency are authorized only to transmit and acknowledge information relating to safety, such as runway conditions and hazards on the airfield. (Such stations are expected to be employed primarily for monitoring advisory communications.)

5. Section 87.437, including the heading, is amended to read as follows:

§ 87.437 Supervision by operator of airdrome control tower, FAA flight service station or aeronautical advisory station.

(a) Transmissions by an aeronautical utility mobile station are subject to the control of the airdrome control tower, the FAA flight service station or the aeronautical advisory station, as appropriate at the particular landing area. When so requested by the control tower, the flight service station or advisory station, a utility mobile station must discontinue transmitting immediately.

(b) An aeronautical utility mobile station must guard its assigned frequency during periods of operation.

(c) Aeronautical utility mobile stations operating on the frequency assigned to an airdome control tower or FAA flight service station must cease to transmit on that frequency when neither of these stations are in operation.

6. Section 87.439 is amended to read as follows:

§ 87.439 Frequency change.

In the event that the utility frequency is changed by the Federal Aviation Administration (to a frequency in the band 121.600-121.925 MHz) or by the Federal Communications Commission, an aeronautical utility mobile station licensee has temporary authority for a period of 90 days to use the new frequency in place of the one listed on the license. An application for modification of the station license to specify the new frequency must be submitted within ten days from the date that the station commences operation on the new frequency.

[FR Doc. 78-29055 Filed 10-12-78; 8:45 am]

[6712-01-M]

[47 CFR Part 73]

[BC Docket No. 78-321; RM-3124]

TELEVISION BROADCAST STATION IN GARDEN CITY, LINCOLN CENTER, AND RANDALL, KANS.

Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action taken herein proposes the assignment of noncommercial eductional television channels to Garden City and Randall, Kans., and the deletion of the noncommercial educational assignment at Lincoln Center, Kans. The proposed reserved assignments would enable noncommercial educational service to be extended to large areas now unserved.

DATES: Comments must be received on or before November 27, 1978. Reply comments must be received on or before December 18, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: September 28, 1978.

Released: October 4, 1978.

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations (Garden City, Randall, and Lincoln Center, Kans.), BC docket No. 78-321, RM-3124.

1. The Commission has before it a petition for rule making,[1] filed by Garden City Community College ("petitioner"), requesting the assignment of noncommercial educational television channel *9 to Garden City, Kans. Petitioner states that in order to utilize channel *9 at Garden City, channel *9 (unoccupied and unapplied for) assigned to Lincoln Center, Kans., should be deleted and reassigned to Randall, Kans. Petitioner states it will apply for the proposed channel at Garden City, if assigned. No responses to the proposal have been received.

2. Garden City (pop. 14,790), seat of Finney County (pop. 19,029),[2] is located in southwest Kansas, approximately 305 kilometers (190 miles) west of Wichita, Kans. It is assigned channel 11 (KGLD) and channel 13 (KUPK-TV). Randall (pop. 195), in Jewell County (pop. 6,099), is located in north-central Kansas, approximately 65 kilometers (40 miles) north of Lincoln Center, Kans. It presently has no television assignments. Lincoln Center (pop. 1,582), seat of Lincoln County (pop. 4,582), is located in north-central Kansas, approximately 50 kilometers (30 miles) northwest of Salinas, Kans. Channel *9 (unoccupied and unapplied for) is the only television channel assigned to Lincoln Center.

3. Petitioner states that it is a part of the educational system of the State of Kansas and as such has been designated by the Kansas Public television Board ("KPTB") to implement KPTB's proposal to establish and educational television station in Garden City, thereby fulfilling KPTB's objectives of providing educational television to southwestern Kansas. It claims that the proposed facility in Garden City would provide coverage to approximately 120,700 persons and would make educational programing available to a substantial population currently lacking such service. Petitioner asserts that reassigning channel *9 for Lincoln Center to Randall would be consistent with KPTB's network plan for the State which is designed to serve many rural constituencies presently unserved by public television. Petitioner further states that KPTB proposes to activate a station on the proposed Randall channel *9 assignment if these changes are adopted.

4. The proposed assignments meet the Commission's distance separation requirements. The channel deletion at Lincoln Center represents the only change in any existing assignment in the table of assignments required by petitioner's proposal. No interest has been shown for use of the Lincoln Center channel since its assignment to that community in 1966. Because the proposed assignments could be used to bring noncommercial educational television service to areas now unserved, we believe it is in the public interest to consider this proposal in a rulemaking proceeding.

5. Accordingly, it is proposed to amend the television table of assignment, § 73.606(b) of the Commission's rules, with respect to the cities listed below, as follows:

City	Channel No.	
	Present	Proposed
Garden City, Kans	11+, 13-	*9, 11+, 13-
Lincoln Center, Kans	*9	
Randall, Kans		*9-

6. The Commission's authority to institute ruemaking proceedings, showings required, cutoff procedures, and filing requirements are contained in the attached appendix below and are incorporated by reference herein.

NOTE.—A showing of continuing interest with respect to each proposed assignment is required by par. 2 of the appendix before a channel will be assigned.

7. Interested parties may file comments on or before November 27, 1978, and reply comments on or before December 18, 1978.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

APPENDIX

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM table of assignments, § 73.606(b) of the Commission's rules and regulations, as set forth in the notice of proposed rulemaking to which this appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the notice of proposed rulemaking to which this appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cutoff procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rulemaking which conflict with the proposal(s) in this notice, they will be considered as comments in the proceeding, and public notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the notice of proposed rulemaking to which this appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b), and (c) of the Commission rules.)

[1] Public notice of the petition was given on June 7, 1978, Report No. 1125.

[2] Population figures are taken from the 1970 U.S. Census.

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filing made in this proceeding will be available for examination by interested parties during regular business hour in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 78-29057 Filed 10-12-78; 8:45 am]

[6712-01-M]

[47 CFR Parts 73 and 76]

[BC Docket No. 78-239]

MULTIPLE OWNERSHIP OF AM, FM AND TELEVISION STATIONS AND CATV SYSTEMS

Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: Action taken herein extends the time for filing comments in a proceeding concerning the amendment of Commission rules relating to multiple ownership of AM, FM and television stations and CATV systems. Petitioner, Citizens Communications Center, states the additional time is necessary so that it can respond to the issues involved.

DATES: Comments must be filed on or before November 27, 1978, and reply comments on or before December 29, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Bonnie H. Lea, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:
Adopted: October 4, 1978.
Released: October 6, 1978.

In the matter of amendment of §§ 73.35, 73.240, 73.636, and 76.501 of the Commission's rules relating to Multiple ownership of AM, FM and Television stations and CATV systems, BC Docket No. 78-239.

1. On August 16, 1978, the Commission issued a Notice of Inquiry and notice of proposed rulemaking, 43 FR 36978, (August 21, 1978) concerning the above-entitled proceeding. The comment and reply comment dates for that notice are October 12, and November 13, 1978, respectively.

2. On September 27, 1978, a request was filed by the Citizens Communications Center ("Citizens"), seeking an extension of time for filing comments to and including December 12, 1978. Citizens states that because of the numerous complex issues raised by the Commission in its notice, which involve interrelated questions of law, economics and basic public policy, Citizens intends to assemble for the Commission data and analysis analogous to that recently presented in the "Top-50" (Docket 78-101) proceeding. It contends that preparation of comments encompassing such a project will entail far more time than that which has been originally envisioned by the Commission. Citizens states further that it anticipates petitioning the Commission for financial assistance in obtaining the expert consultants necessary to insure that the Commission obtains the best possible sources of detailed, accurate and relevant information upon which to rely in the instant proceeding.[1]

3. While we are persuaded that some additional time is warranted, we believe an extension of time for filing comments and reply comments to and including November 27, and December 29, 1978, is sufficient to respond to the issues involved.

4. *Accordingly, it is ordered,* That the request for extension of time filed by the Citizens Communications Center is granted to the extent that the dates for filing comments and reply comments are extended to and including November 27, and December 29, 1978, respectively, and is denied in all other respects.

5. This action is taken pursuant to sections 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 78-29056 Filed 10-12-78; 8:45 am]

[3510-22-M]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Part 611 and 672]

PACIFIC COD

Limitation on the Foreign Harvest

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Proposed amendment to proposed regulations; approval of fishery management plan amendment.

SUMMARY: An amendment to the fishery management plan (FMP) for groundfish in the Gulf of Alaska, submitted by the North Pacific Fishery Management Council (Council), is approved. The amendment permits foreign longline fishermen to take the entire Chirikof total allowable level of foreign fishing (TALFF) (and any allocated reserves) for Pacific cod in that portion of the Chirikof subarea west of 157° W. longitude. The proposed regulations are proposed to implement the FMP amendment.

DATE: Comments are invited until November 20, 1978.

ADDRESS: Comments may be submitted to Mr. Harry Rietze, Regional Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99801, telephone 907-586-7221.

FOR FURTHER INFORMATION CONTACT:

Person and address mentioned above.

SUPPLEMENTARY INFORMATION: The FMP for the groundfish fishery of the Gulf of Alaska (43 FR 17242), published on April 21, 1978, would limit the total foreign longline harvest of Pacific cod in the area west of 157° W. longitude, an area which includes 40 percent of the Chirikof statistical area. The FMP established an optimum yield (OY), reserve, and TALFF for all of the Chirikof area, and would limit the foreign longline catch of Pacific cod in the area west 157° W. longitude to 40 percent of that reserve and TALFF. On June 29, 1978, the Council submitted an amendment to the FMP which would allow foreign longline vessels to harvest the reserves and TALFF of the entire Chirikof area in the directed longline fishery west of 157° W. longitude. That amendment was approved on September 8, 1978.

The Assistant Administrator for Fisheries has found that this amendment is consistent with the Fishery Conservation and Management Act of 1976, 16 U.S.C. 1801 et seq. (Act), the national standards of the Act, and other applicable law. Under the FMP, Pacific cod in the Chirikof statistical area are considered a single stock. Therefore, the amendment will not lead to overfishing of local stocks. The OY's and TALFF's established in the FMP are unchanged. Incidental catch of halibut will not be increased, and may be reduced if longliners (instead of trawl vessels) harvest a higher proportion of the Pacific cod TALFF.

The Assistant Administrator for Fisheries has determined that this is not a significant action requiring the preparation of a regulatory impact analysis under Executive Order 12044. The Assistant Administrator, having reviewed the Act and the available information relating to this action, has determined that there would be no significant environmental impact result-

[1] Citizens is hereby advised that no funds are presently available for this purpose.

ing from this action. This determination was made on July 26, 1978.

Commenters should be aware that two additional amendments to this FMP, and proposed implementing regulations, have been published. The first (43 FR 34825) extends the OY's, TALFF's, reserves and assessments of domestic capacity for this FMP until October 31, 1979. The second amendment, published on October 6, 1978, proposes establishment of a "special joint venture" reserve and lowers the initial TALFF's for all species regulated by the FMP. Therefore, the TALFF's reserves and domestic capacity assessments stated in this amendment may be reduced in the final amendment and regulations to be consistent with other FMP amendments.

Signed in Washington, D.C., this 6th day of October 1978.

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

The FMP is amended as follows:

Part 611—FOREIGN FISHING

§ 611.92 [Amended]

1. It is proposed to amend 50 CFR 611.92(b)(1) (43 FR 17015) as follows: In table I, footnote 1, strike "20 percent." Strike "6,233" and substitute "7,600."

2. It is proposed to amend § 611.92(b)(3)(i)(c) (43 FR 17016) as follows: Strike each occurrence of "4,000" and substitute "4,860." Strike "6,233" and substitute "7,600."

PART 672—GROUNDFISH OF THE GULF OF ALASKA

3. In table 62 (43 FR 17315), footnote 2, strike "20 percent." Also strike "6,233" and substitute "7,600" so that the last footnote reads:

[2]The maximum allowable foreign catch (including the reserve) for the area would be 7,600 mt.

4. In table 63 (43 FR 17315), footnote 1, add at the end of the sentence a second sentence:

[1] * * * Because all of the Pacific cod in the Chirikof statistical area are considered one stock, the TALFF for longliners may include all of the TAC (and the reserve if later apportioned to the foreign fishery) available in that statistical area.

5. In table 64 (43 FR 17316), footnote 3, strike "only" after "total." Strike "6,233" and substitute "7,600" so that the sentence reads:

[3] * * * (including the reserve) 7,600 mt can be taken west of 157° W. longitude.

[FR Doc. 78-28877 Filed 10-12-78; 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.

[3410-05-M]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

AGRICULTURAL CONSERVATION PROGRAM

Intent for Decisionmaking on the 1979 program and Opportunity For Public Comment.

SUMMARY

The Administrator of the Agricultural Stabilization and Conservation Service hereby gives advance notice of forthcoming decisions to be made on certain aspects of the Agricultural Conservation Program (ACP).

The pending Agriculture, Rural Development, and Related Agencies Appropriations Act for fiscal year 1979, provides specific direction concerning the ACP. Among other things, the act provides that assistance will not be used for carrying out measures and practices that are primarily production oriented or that have little or no conservation or pollution abatement benefits. Due to a general lack of information with respect to specific impacts of conservation and pollution abatement practices, it would be difficult to implement this direction by way of binding regulations without risking significant adverse social and environmental impacts. Consequently, the agency proposes to implement the directive contained in the 1979 Appropriations Act by means of guidelines, criteria and procedures so as to allow flexibility to quickly accommodate new information as it becomes available. However, the public participation aspects of rulemaking procedures will be followed as a means of helping to provide an provide an adequate basis for decisions.

On or about November 1, 1978, proposed guidelines, criteria, and procedures by which to select soil and water conservation and environmental protection practices to be eligible for Federal financial assistance under the ACP will be issued for publication in the FEDERAL REGISTER together with a preliminary list of practices thought to meet the proposed criteria.

PUBLIC COMMENTS

The ASCS invites and requests suggestion, comments, or other inputs from the public concerning the development of the criteria, guidelines, and procedures to govern the ACP. All suggestions, comments and other inputs received by October 30, 1978, will be considered in the development of the proposed guidelines, criteria, and procedures. Suggestions, comments and other inputs may be delivered by mail or in person to:

Alan Durick, Acting Director, Conservation and Environmental Protection Division, Agricultural Stabilization and Conservation Service, Room number 3096, South Building, U.S. Department of Agriculture, Washington, D.C. 20013.

In addition, suggestions, comments and other inputs may be delivered at the following public meetings:

General Public Meeting, October 25, 1978, 1:30-4:30 p.m., room number 4960, South Building, U.S. Department of Agriculture, Washington, D.C. 20013.

National Program Development Meeting October 27, 1978, 1:30-4:30 p.m., room number 4960, South Building, U.S. Department of Agriculture, Washington, D.C. 20013.

GENERAL INFORMATION

Public comment on the proposed guidelines, criteria, and procedures will be solicited for 60 days following their publication. Comments may be delivered by mail or in person to an address to be published with the proposal.

Final decisions on the guidelines, criteria, and procedures to be used to govern the ACP will be published on or about January 1, 1979. A list of conservation and environmental protection practices which are determined, at that time, to be eligible for Federal financial assistance will also be published. The Administrator recognizes, however, that conditions may warrant revising the list of practices eligible for financial assistance. Accordingly, procedures will be established to provide for a periodic (or continuous) review and updating of the list of practices which are eligible for financial assistance.

FOR FURTHER INFORMATION CONTACT:

Gardner P. Smith, Deputy Director, Conservation and Environmental Protection Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20013, 202-447-5295.

Signed at Washington, D.C., on October 5, 1978.

S. N. SMITH,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 78-28693 Filed 10-12-78; 8:45 am]

[6335-01-M]

CIVIL RIGHTS COMMISSION

HEARING

Notice is hereby given pursuant to the provisions of the Civil Rights Act of 1957, 71 Stat. 634, as amended, that a public hearing of the U.S. Commission on Civil Rights will commence on November 14, 1978, in Washington, D.C. More specific information on the location on the hearing will be published in the FEDERAL REGISTER on or about November 1, 1978, and may also be obtained by calling the Office of the General Counsel, 202-254-6671, after that date. An executive session, if appropriate, may be convened at any time before or during the hearing.

The purpose of the hearing is to collect information concerning legal developments constituting a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, or national origin, or in the administration of justice, particularly concerning the administration and enforcement of the immigration and nationality laws of the United States; to appraise the laws and policies of the Federal Government with respect to denials of equal protection of the laws under the Constitution because of race, color, religion, sex or national origin, or in the administration of justice, particularly concerning the administration and enforcement of the immigration and nationality laws of the United States; and to disseminate information with respect to denials of equal protection of the laws under the Constitution because of race, color, religion, sex, or national origin, or in the administration of justice, particularly concerning the administration and enforcement of the immigration and nationality laws of the United States.

Dated at Washington, D.C., October 11, 1978.

ARTHUR S. FLEMMING,
Chairman.

[FR Doc. 78-29207 Filed 10-12-78; 9:05 am]

[6325-01-M]

CIVIL SERVICE COMMISSION

ESTABLISHMENT OF PRESCRIBED MINIMUM EDUCATIONAL REQUIREMENTS

Ecology Series, GS-408

AGENCY: U.S. Civil Service Commission.

ACTION: Notice.

SUMMARY: The Civil Service Commission has revised the prescribed minimum educational requirement of ecologists employed within the Federal service. Ecology is a professional occupation whose minimum educational requirement was intially established in May 1977. The changes will facilitate the procurement of qualified candidates at grade levels GS-5 through GS -15 for ecologists employed within the Federal service.

EFFECTIVE DATE: October 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Donald G. Brauer, Chief, Science and Engineering Occupations Section, Standards Division, Bureau of Policies and Standards, U.S. Civil Service Commission, 1900 E Street NW., Washington, D.C. 20415, 202-632-5612.

SUPPLEMENTARY INFORMATION: In accordance with Section 3308 of title 5, United States Code, the Civil Service Commission in May 1977 established a prescribed minimum educational requirement for ecologists employed within the Federal service. The subsequent revised requirement reduces the required course work in the biological, physical, and mathematical sciences, and in ecology.

THE ECOLOGY SERIES, GS-408 GS-5 THROUGH GS-15

Mininim Educational Requirements. Candidates must have successfully completed a course of study in an accredited college or university leading to a bachelor's or higher degree in biology or a related field of science underlying ecological research. This total course of study must have included at least 30 semester hours in basic and applied biological sciences, including a total of at least 9 semester hours in ecology. In addition, candidates' total course of study also must include at least 12 semester hours in the physical or mathematical sciences. The nature and quality of this required course work must have been such that it would serve as a prerequisite for more advanced study in ecology.

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

[FR Doc. 78-29006 Filed 10-12-78; 8:45 am]

[3510-25-M]

DEPARTMENT OF COMMERCE

Industry and Trade Administration

NATIONAL RADIO ASTRONOMY OBSERVATORY—TUCSON

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m., in room 6886C of the Deparment of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00303. Applicant: National Radio Astronomy Observatory Associated Universities, Inc., 2010 North Forbes Boulevard, Suite 100, Tucson, Ariz. 85705. Article: Klystron, Model VRB2113A30. Manufacturer: Varian Associates of Canada Ltd., Canada. Intended use of article: The article is intended to be used as a phase-locked local oscillator in a millimeter wave radio astronomy receiver which is used in conjunction with a microwave antenna to measure the intensity, polarization, frequency, and direction of cosmic radiation.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No intrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a frequency in the range between 105-111 gigahertz. The National Bureau of Standards (NBS) advises in its memorandum dated August 31, 1978, that: (1) The capability of the article described above is pertinent to the applicant's research purposes, and (2) it knows of no domestic instrument of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-28962 Filed 10-12-78; 8:45 am]

[3510-25-M]

RICHARD B. RUSSELL AGRICULTURAL RESEARCH CENTER

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m., in room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 76-00453. Applicant: Richard B. Russell Agricultural Center, Agricultural Research Service/USDA, P.O. Box 5677, Athens, Ga. 30604. Article: NMR Spectrometer System, Model JNM-PS/PFT 100. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used in experiments in which the following objectives will be pursued:

(a) Determination of the structural features of the polymeric compounds which are the cell wall constituents affecting digestibility,

(b) Structural elucidation of beneficial and/or deleterious biologically active constituents in forages and feeds,

(c) Determination of sites of silica deposition in plants and elucidation of the process of silica deposition,

(d) Identification and determination of pesticide residues and metabolites in forages, feeds, and animals ingesting forages and feeds,

(e) Elucidation of protein structure and conformation, and

(f) Evaluation of the nature of polymer cross-linking in cell wall constituents.

Comments: Comments dated August 6, 1976 were received from Varian Associates (Varian) which allege inter alia that the model XL 100-15 is of equivalent scientific value to the foreign article.

Decision: Application denied. An instrument or appartus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (May 23, 1972).

Reasons: This application is a resubmission of docket Nos. 73-00008-33-77030 and 74-00226-33-77030 which were denied without prejudice to resubmission on August 27, 1973 and January 19, 1976, respectively, for informational deficiencies.

The applicant's response to question 8 is essentially the same as the response to that question in the second submission (docket No. 74-00226-33-77030). However, the applicant's letter of June 17, 1976, expands the response

to question 8. The applicant alleges that the foreign article provides certain features which are pertinent to the intended use of the article that are unmatched in comparable domestic instruments. In reviewing these claims, the Department of Health, Education, and Welfare (HEW) advises in its memoranda dated January 17, 1977 and November 28, 1977 (which reaffirms its findings on the applicant's prior submissions), that these features are either not pertinent within the meaning of § 301.2(n) of the regulations or were matched by a comparable domestic instrument which was available at the time of order. (Varian's XL 100-15 nuclear magnetic resonance spectrometer (NMR) equipped with pulsed Fourier Transform (PFT), external lock and variable temperature control.)

HEW indicated that this Varian instrument is scientifically equivalent to the foreign article for its intended purposes.

A discussion of the applicant's allegations relative to pertinency and domestic availability follows.

High Pulse Power

Power in a PFT instrument is needed to acheve a short intense pulse. The actual power in watts needed to achieve such a pulse is not a true indication of pulse power since some systems are more efficient than others. Thus, both the foreign and the domestic manufacturers specify pulse power in terms of pulse width. And, to provde an even more meaningful measure of power, manufacturers define this capability as the pulse width that can impart a specific pulse angle (e.g., 90°) to a particular nucleus (e.g., ^{13} C). In comparing instruments with respect to pulse power, comparable specifications should be used. The pulse width of the foreign article is described in several ways. First, there is the description provided in the applicant's request for quote (RFQ). Although the applicant claims a need for a 90° pulse in the vicinity of 20 microseconds (μ-sec) for the performance of the purposes described in response to question 7, it is noted that RFQ 61-RN-ARS-72, incorporating these same purposes (as the intended use of the article), indicated that a pulse width of up to 150 μ-sec would be satisfactory. Next, there are the specifications provided in the foreign manufacturer's literature on the article wherein pulse power amplifier output is given as sufficient to give a 20 μ-sec width of 90° pulse. Finally, there is the quotation of the foreign manufacturer which states, more precisely, that the ^{13}C, 90° pulse width is 30 μ-sec in a 10 mm tube. Almost 2 months before the foreign article was ordered, Varian shipped an XL-100-15 system providing a ^{13} C, 90° pulse width of 40 μ-sec in a 12 mm tube. The foreign manufacturer has printed a supplement to the brochure describing the foreign article indicating that the article provides a ^{13}C, 90° pulse width of 20 μ-sec in an 8 mm tube and 30 μ-sec in a 10 mm tube. Thus, at best, the foreign article has but a slightly superior pulse width.

The applicant cited both pulse power and pulse width as pertinent specifications and claimed that Varian's pulse width at the time the article was ordered was 150 μ-sec. After review of the initial application HEW advised that the applicant had not demonstrated a clear relation between planned experiments and specific instrumental characteristics claimed to be lacking in the domestic instrument. HEW further advised that Varian had furnished proof that it could deliver and XL 100-15 NMR system with 40 μ-sec pulse power at the time of order, well within the specifications in the applicant's RFQ. HEW's advice was conveyed to the applicant via the Department's denial without prejudice to resubmission.

In the second submission (docket No. 74-00226-33-77030), the applicant's response to question 8 was similar to that of the intitial submission. The requirement for pulse power and width was described as follows:

1. Available pulse power limits the chemical shift range over which accurate T_1 values can be measured. In the Varian system, the strength of the pulsed field is too low to permit accurate measurements on ^{13}C; this would eliminate some of the studies mentioned in section 7.a.(3) (a) and (e). ("Section 7.a.(3) (a) and (e)" refer to specific portions of the applicant's response to question 7.)

2. Pulse widths must be small compared to the relaxation times to be studied. Varian's pulse widths are about (150) μ-sec for 0 90 (90° pulse width) and 300 μ-sec for 0 180, at least a factor of seven greater than those of (the foreign article). Since crystalline samples often have T_2 100μ-sec and 19 F in gas samples are known to have T_1 of the order, of 100 μ-sec, the utility of Varian's instrument is again questionable in the studies of section 7a.(3) (a) and (e).

In section 7.a.(3)(a) the ^{13}C and ^{1}H spectra of certain relatively insoluble polysaccharides are to be measured at or near the glass transition temperature where, according to the applicant, T_1 and T_2 values can be 1 millisecond (msec) or less. In this connection, HEW provided the following advice:

1. Repeated references are given to measurements of T_2 yet neither the Varian system nor the foreign article is equipped to carry out such measurements in the manner indicated.

2. * * * it is implied that the samples will be dissolved, but a "glass transition temperature" is referred to, where a T_1 of 1 msec is expected. It is not clear whether this number is intended to refer to protons or ^{13}C. Unless * * * (certain) * * * species are present (which are not discussed), it is almost certain that a ^{13}C T_1 as short as 1 msec would not be obtained, and it is doubtful that a proton T_1 that short at 100 MHz would be found in what is evidently a more or less fluid sample. The values of pulse width which the 1 msec T_1 is compared refer to ^{13}C, not protons, for which much shorter pulse widths would be obtained with the Varian spectrometer.

Section 7a.(3)(e) involves ^{13}C, T_1 and T_2 measurements on very low concentrations of proteins and model protein systems requiring (among other things) long data accumulations with minimum drift over a 24-hour period. HEW advises that this experiment can be performed equally well with the Varian system or the foreign articles. (In this connection, the Department notes that 7.a.(3)(e) bears a similarity to an experiment on lignin described in the applicant's third submission with respect to long data accumulations. The lignin experiment, as can be seen in the discussion under the heading "Short Receiver Dead Time and Pulse Width" below, provided no grounds for duty-free entry.) HEW's advice on the second submission was conveyed to the applicant in the denial without prejudice to resubmission.

Except for corrections of typographical errors the applicant's response to question 8 in this, the third submission, is identical to that of the second. However, the applicant, in a letter attached to the application dated June 17, 1976, did attempt to correct the deficiencies pointed out by HEW in its recommendation relating to docket No. 74-00226-33-77030.

In connection with pulse power, the applicant described an experiment of 100,000 or more pulses in which "the combination of higher pulse power, short receiver dead time * * * and consequently shorter pulse width" was stated to provide an advantage. The

applicant also discussed the possibility (not yet attained) of obtaining accurate T_1's below 1 msec. This additional material as shown in separate treatments under the headings "Short Receiver Dead Time and Pulse Width" and "T_1, for ^{13}C in the Range of a Millisecond" below, provides no justification for duty-free entry. In view of the foregoing, HEW advises that the article's specified pulse power provides no scientifically significant advantage over that of the domestic instrument for any of the applicant's planned work. The Department concurs.

Short Receiver Dead Time

No documentation is provided to support the applicant's statement that the receiver dead time of the foreign article is 12 μ-sec. In RFQ 61-RN-ARS-72 the applicant requested a recovery time of 150 μ-sec. In both the foreign manufacturer's quotation to the applicant (dated Apr. 12, 1972), and the article's specifications, recovery time is given simply as less than 20 μ-sec. In any case, the applicant states in this third submission (docket No. 76-00453) that this feature is connected with pulse width. As will be shown below the combination of pulse power, short receiver dead time and pulse width of the articles provides no scientifically significant advantage with respect to the applicant's intended experiments.

Thus, HEW advises, and we concur, that short receiver dead time is not pertinent.

Short Receiver Dead Time and Short Pulse Width

The applicant alleges that the combination of higher pulse power, and shorter receiver dead time (and consequently shorter pulse widths than the domestic instrument) would save time on long experiments (upwards of 100,000 pulses) such as ^{13}C studies on lignin. The applicant also states that this time-saving feature combined with the article's "single scan"* ^{13}C sensitivity makes the article superior to any comparable equipped 100 megahertz (MHz) instrument on the market today. The article's "single scan" ^{13}C sensitivity, measured in the applicant's laboratory, is alleged to be 470:1 on the largest peak of a 90 percent ethylbenzene sample in a 10 mm tube at ambient temperature with 5,000 Hertz (Hz) spectral width. The applicant further alleges that as of May 3, 1976 Varian's stated maximum sensitivity under these conditions was 200:1.

Regarding the saving of time, HEW advises that for the sample cited a saving of only 11 seconds in a total experiment time of close to 24 hours would accrue. Thus HEW finds, and the Department concurs, that the differences in receiver pulse power, receiver dead time and pulse width between the article and Varian's XL 100-15 is not pertinent for the planned work.

Regarding sensitivity, the following is noted:

1. The procedure of denial without prejudice to resubmission affors the applicant an opportunity to correct deficiencies in an application which are pointed out in writing. (Sensitivity was not alleged to be pertinent and unmatched by domestic instruments in either of the two prior applications for duty-free entry of the article although eight other features were repeatedly discussed in reply to question 8). Although the question of single scan ^{13}C sensitivity is being raised for the first time in this third submission, the denial without prejudice to resubmission procedure is not intended to be a route for the introduction of wholely unexpected or previously unexplored issues ad infinitum.

2. 470:1 value for sensitivity provided by the applicant is not the guaranteed sensitivity of the article (which according to the foreign manufacturer's quotation is 140:1 under the conditions described by the applicant) but rather one stated to have been measured in the applicant's laboratory. Subsection 301.11(a) of the regulations stipulates that in our comparison of the foreign article with domestic instruments guaranteed specifications are to be considered. The applicant's RFQ does not specify a single pulse sensitivity but does specify a continuous wave ^{13}C sensitivity of 30:1 in an 8 mm tube. Varian's letter of april 12, 1972 listing exceptions to the applicant's RFQ did not take exception to any of the applicant's sensitivity specifications. Varian, in its comments, states a belief that its guaranteed ^{13}C signal to noise sensitivity specifications have always been equal to or greater than those guaranteed by the manufacturer of the foreign article.

Thus, the 470:1 figure provided by the applicant cannot be a factor in our deliberations. The applicant, in the above-cited letter of June 17, 1976 (item A1.), acknowledges that where guaranteed sensitivity of the article and the Varian system can be compared (i.e., for continuous wave ^1H), the two instruments are equivalent.

Accurate Digital Pulse Programming

The applicant alleged in response to question 8 in all three applications for duty-free entry of the foreign article that this feature is required in DEFT (driven equilibrium Fourier transform) and Carr-Purcell experiments.

DEFT and a form of the Carr-Purcell method known as SEFT (spin echo Fourier transform) are of interest for enhancing signals above those attainable by ordinary Fourier transform techniques when certain conditions prevail, i.e., the spin-lattice relaxation time, T_1, is very long and T_1 is approximately equal to the spin-spin relaxation time, T_2. The Carr-Purcell sequence is also used for finding T_2. In its recommendation relating to the applicant's initial submission (docket No. 73-00008-33-77030), HEW advised that there was no indication that Carr-Purcell is in any way related to experiments that the applicant intends to perform and, after review of the applicant's second submission (docket No. 74-00226-33-77030), HEW advised that in the applicant's description of experiments to be conducted there are repeated references to the measurement of T_2, yet neither the Varian instrument nor the foreign article is equipped to carry out such experiments in the manner indicated. In this third submission, the applicant did not provide any new information on the requirement for Carr-Purcell but did expand on the requirement for DEFT. The applicant "visualized" that DEFT could be useful on lignin, lignin-carbohydrate complexes, and polysaccharides of forage plant cell walls to attain better signal-to-noise ratios (S/N) than attainable with a normal single pulse sequence without a significant increase in the total time required for an experiment. In connection with the requirement for DEFT HEW advises that DEFT is useful in improving the efficiency of ^{13}C NMR only in cases where T_1 is long and T_2 is approximately equal to T_1. HEW further advises that because of spin coupling between ^{13}C and protons, T_2 in polysaccharides and other compounds cited by the applicant is expected to be appreciably shorter than T_1 (HEW references Shoup, Becker and Farrar, J. Magnetic Resonance 8, 298 (1972) as well as references given therein for further detail). Finally, in connection with the use of Carr-Purcell for measurement of T_2, the Department notes that T_2 can be measured in other ways. For example, T_2 can be derived from the width of a spectral line in many samples (such as polysaccharides) where the line width is much greater than magnetic field in homogeneity. HEW further advises that at the time of order no manufacturer, domestic or foreign, offered Carr-Purcell measurements on a high resolution Fourier transform NMR spectrometer.

Capability of Operating in Either International or External-Locked Mode

Although HEW advises that an external lock is pertinent to the applicant's work, the Department of Commerce has established, and HEW con-

*It is clear from material attached to the application that the applicant is referring to single pulse.

curs, that the XL-100-15 system could be provided with internal and external locks at the time the foreign article was ordered to match the pertinent specification of the article. In this connection, it is noted that Varian shipped an XL-100-15 system with internal and external locks more than one year before the article was ordered.

CAPABILITY OF RUNNING WIDE SWEEPS IN A LOCKED MODE

The Department notes that the applicant refers to his response in question 7.a.(3) (a) and (e) to establish the pertinency of this feature of the article. This work cited by the applicant will require the Fourier Transform capabilities of the article. The Department is cognizant that the wide sweeps in a locked mode provided by the article are used only in continuous wave (cw) nuclear magnetic resonance spectrometry and are not used in the Fourier Transform mode. Generally, cw work is not done when PFT is available. Several texts point out that the spectral range or sweep width in the Fourier Transform mode is determined by the amount of power applied to the sample and the rate at which the computer digitizes the data (e.g., T. C. Farrar and E. D. Becker, Pulsed and Fourier Transform NMR. Introduction to Theory and Methods, pp. 67, 69-71, Academic Press, New York (1971)). HEW advises that this feature is not pertinent for the work described by the applicant. The Department concurs.

SUFFICIENTLY WIDE TEMPERATURE RANGE

Although HEW advises that the need for a variable temperature capability is pertinent to the applicant's work, the Dpeartment of Commerce has established, and HEW concurs, that the XL-100-15 system could be provided with variable termperature capability in the range required by the applicant (−150° to +200° centigrade) for the size tube required by the applicant (a sample tube of 10 mm or greater) at the time the foreign article was ordered. (These features were offered with the domestic instrument introduced in 1969 and continued to be offered with the XL-100-15 PFT.) Thus, this feature is matched in the XL-100-15 system.

In addition, the applicant in his response to question 8.(c)3 alleged, "* * * In addition to having a wider temperature range available, [the article's] variable termperature system is better in that it provides a calibrated readout of the temperature at the sampel, which Varian's system does not." In his letter of June 17, 1976 the applicant states, "* * * JEOL on the other hand offered a 10 mm VT probe with direct temperature readout * * *." We note the applicant's RFQ specified VT for an 8 mm tube and a 5 mm tube but not a 10 mm tube. Further, it provided no instructions relative to calibrated readout of temperature at the sample. Moreover, this feature is not described in the specifications of the article or the foreign manufacturer's quotation. However, technical literature permitted comparison of the instruments in question with respect to "readout". Both the variable temperature accessory of the article and XL-100-15 provide dials and/or meters for indication of temperature in the vicinity of the sample tube (for 10 mm or larger tubes), once temperature has been calibrated by an acceptable method. The foreign article provides a temperature meter on the magnet whereas Varian provides a temperature setting dial plus a temperature variation meter on the console. Precise temperature work in both systems, however, would require exacting calibration techniques which provide the actual temperature inside the sample tube. One such technique utilizes compounds with temperature sensitive lines which can be added directly to the sample or placed in a capillary inserted therein. Another very precise technique utilizes a special thermometer which can be placed in the sample tube cavity (or even sample tube). Since similar variable temperature experiments can be caried out in both the foreign and the domestic system, we find these systems to be scientifically equivalent with respect to temperature identification for the applicant's intended use. In any event, HEW did not find "calibrated readout of temperature at the sample" to be pertinent.

WATER COOLING OF PROBE

Varian claims that the proble of the XL-100-15 system can be operated without water cooling because the electrical shim coils are mounted on the pole caps and therefore do not transmit any heat to the NMR sample area. In our denial without projudice to resubmission of the applicant's initial submission, the applicant was informed that Varian claimed its proble was designed to eliminate transmission of heat to the sample area. The applicant in two subsequent submission provided no new information on the issue of the cooled probe. In any case, HEW advises that this design feature is not pertinent to the applicant's work.

T_1 FOR ^{13}C IN THE RANGE OF A MILLISECOND

In the applicant's letter of June 17, 1976, the applicant states that although accurate T_1's below 1 msec (millisecond) have not been obtained, such values are not inconceivable for glycerol backbone carbons in the very viscous natural states in the plant seed. However, HEW advises that, with regard to possible T_1's for ^{13}C in the range of a msec, it is known that dipolar relaxation cannoot give ^{13}C T_1's of less than 20 msec. HEW further advises that contrary to the applicant's statement, increase in viscosity of the sample will cause T_1 to go through a minimum of about 20 msec and then increase, while T_2 continues to decrease. Thus, HEW advises that this feature is not pertinent to the planned work.

AVAILABLE DOMESTIC INSTRUMENT

Applicant's allegations.—Although the XL-100-15 was discussed the applicant alleged that the Department should base its determination on a comparison of the foreign article with the XL-100-12. In a letter, dated November 16, 1973 attached to the second application (docket No. 74-00226-33-77030), the applicant stated, "* * * the government can only accept prototype equipment when it is the only source. Our solicitation was for an advertised system. Varian did not bid the XL-100-15 and took several exceptions for the XL-100-12 * * *". In this submission (docket No. 76-00453), the applicant's letter of June 17, 1976 stated, "* * * Comments concerning the Varian XL-100-15 may be irrelevant to the discussion since Varian Associates did not bid that instrument * * *". Consideration of these allegations by the Department involved criteria for determining domestic availability, Varian's comments, Varian's quote in response to the applicant's RFQ, less formal contact of the applicant with Varian and factual information in the public domain.

Criteria for determining domestic availablility.—Although it is not conceded that the XL-100-15 was an unadvertised prototype, it must be pointed out that the specific purchasing policies of the applicant are not standards of domestic availability for purposes of duty-free entry. According to § 301.11(b) of the regulations a domestic instrument or apparatus is considered available (whether produced for stock, produced on order or custom made) if the U.S. manufacturer is able and willing to produce it and have it available without unreasonable delay. The subsection also indicates that normal commercial practices applicable to the production and delivery of the instrument in question is to be considered in the determination of domestic availability. As will be shown below, the XL-100-15 system meets the criteria of § 301.11(b).

Varian's comments.—Varian stated that (1) its records show that both the XL-100-12 and the XL-100-15 were

freely available at the time the XL-100-12 was quoted [April 12, 1972], (2) the XL-100-15 was, and is, the higher volume product [i.e., Variance manufactures and sells more XL-100-15's than XL-100-12's], (3) the decision to formally bid the XL 100-12 in response to the applicant's RFA was based on factors other than technical specifications, and (4) Varian would have been pleased to quote the XL-100-15 had it been specifically requested to do so.

Varian's quotation.—The Department notes that it lacks information on the nature of Varian's response to the applicant's solicitation (No. 61-RN-ARS-72). A letter dated April 12, 1972, which was attached to Varian's response, indicated that an XL 100-12 without external lock, DEFT, or variable temperature was quoted. But this letter was all that was supplied by the applicant and practically all the detail of Varian's quote (No. 54-472-3) is not available to us because neither the applicant not Varian could supply us with a copy of Varian's quotation. Thus, we cannot verify the specifications actually offered, price, alternatives, etc.

Other contacts between the applicant and Varian.—The applicant indicated that contact with Varian (with salesmen and Dr. Leroy F. Johnson) took place from June 1971 to February 1972. However, little detail is given on the nature of these contacts and when the Department, in its denial without prejudice to resubmission of docket No. 74-00226-33-77030 (the second submission), asked when (between June 1971 and February 1972) a particular conversation (on pulse power) with Dr. Johnson took place the applicant, on resubmission, responded, "* * * It was, to the best of my recollection between November 1972 and February 1973 * * *". The response to question 9 which covers the applicant's contact with domestic manufacturers does not appear to cover the relatively informal contacts with Varian cited above. However, the Department notes a significant omission in the applicant's response to question 9.a.(3). In response to this question the applicant indicated that Varian was requested to bid, but the balance of the question, which asked whether cost limitations were involved in this request, was not answered. It is also significant that, in the Solicitation Instructions and Conditions attached to the applicant's RFQ, item 10. (Award of Contract) reads in pertinent part, "(a) the contract will be awarded to that responsible offeror whose offer conforming to the solicitation will be most advantageous to the Government, *price*, and other factors considered." (emphasis added). This is significant because the price of an XL 100-15 system matching the article would be higher than that of either the article of the XL 100-12 and the applicant purchased the article from the lowest acceptable bidder. In accordance with § 301.2(n), difference in cost between the article and the most closely comparable domestic instrument is not considered a basis for duty-free entry.

Information in public domain.—Varian's willingness and ability to supply the XL 100-15 was clearly a matter of public record at the time the foreign article was ordered. The instrument was first introduced in 1969. At that time PFT for proton was offered as an option. The basic instrument and its improvement with time has been advertised in the trade literature, demonstrated at exhibits and at Varian's applications laboratory, discussed at owner's conferences, described in catalogs, ordered, shipped, discussed in application for duty-free entry etc. from 1969 to 1972 (and thereafter). Further, the publicity on the XL 100 series clearly indicated that the XL 100-15 had significantly higher capability than the XL 100-12. Thus, Varian demonstrated its willingness to supply the XL 100-15 by offering it in quotations, timely advertisements etc. and Varian demonstrated its ability to supply the XL 100-15 by manufacturing it (to a greater extent than the XL 100-12) and shipping it. The Department has documentation to support the statement that Varian shipped and offered units of its XL 100-15 PFT NMR spectrometer system comparable to the foreign article. Varian shipped such a unit to Harvard University on March 30, 1972 (i.e., before the article was ordered) and quoted similar units to Pennsylvania State University and Albert Einstein College of Medicine on February 24, 1972 and July 22, 1971 respectively. Both Pennsylvania State University and Albert Einstein College of Medicine applied for and obtained duty-free entry of instruments essentially identical to the foreign article (dockets No. 72-00504-01-77030 and 73-00136-01-77030 respectively). In the second submission (docket No. 74-00226-33-77030) the applicant cited these two cases as precedents and stated that the XL 100-15 was "unavailable" (citation of these precedents was not repeated on resubmission). The Department's approval of these applications, however, were not based on the nonavailability of a comparable XL 100-15 system but the inability of that system to perform certain specific experiments within the capability of its foreigh counterpart. Such specific experiments are not described in any of the applications that are the subject of this decision.

In view of the above, the Department finds that Varian was both willing and able to provide an XL 100-15 PFT NMR spectrometer with all necessary accessories for the applicant's intended uses at the time the foreign article was ordered. The Department further finds that difference in cost between the foreign article and this domestic instrument and Varian's knowledge that this difference would be critical in the award of the purchase contract is a reasonable explanation of Varian's bid of an XL 100-12.

Based on the foregoing considerations, HEW advice, our own review of the application as well as other factual information in our possession (specifications, textbooks etc.) we find that the model XL 100-15 NMR system was of equivalent scientific value to the foreign article for such purposes as this article is intended to be used at the time the foreign article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-28963 Filed 10-12-78; 8:45 am]

[3510-25-M]

UNIVERSITY OF ILLINOIS—URBANA

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00284. Applicant: University of Illinois Purchasing Division, 223 Administration Building, Urbana, Ill. 61801. Article: Reflection-Transmission Unit for Beckman-RIIC FS-720 Fourier infrared spectrometer. Manufacturer: Beckman-RIIC Ltd., United Kingdom. Intended use of article: The article is intended to be used for reflectance and transmission studies of metals such as $TaSe_2$ and V_3Si which have interactions between vibrations of the atoms and the electrons responsible for electrical conductivity. The frequency range of interest is the far infrared.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The application relates to accessories for an instrument that had been previously imported for the use of the applicant institution. The article is being furnished by the manufacturer which produced the instrument with which the article is intended to be used and is pertinent to the applicant's purposes. The National Bureau of Standards (NBS) advises in its memorandum dated August 30, 1978 that it knows of no domestic instrument of equivalent scientific value to the article for its intended uses.

The Department of Commerce knows of no other similar accessories being manufactured in the United States, which are interchangeable with or can be readily adapted to the instrument with which the foreign article is intended to be used.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-28964 Filed 10-12-78; 8:45 am]

[3510-25-M]

UNIVERSITY OF WISCONSIN—MADISON

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301). A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00256. Applicant: University of Wisconsin—Madison Plasma Physics, 1150 University Avenue, Madison, Wis. 53706. Article: 35 GHz, 15 W extended interaction oscillator, type VKQ 2420E. Manufacturer: Varian Associates of Canada, Canada. Intended use of article: The article is intended to be usd in a microwave scattering experiment in which density fluctuations in the plasma will be probed revealing their characteristic frequencies and wavelengths. The density fluctuations to be studied are common to octupoles, tokamaks, and many other devices.

Comments: No comments hve been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a high power source (75 watts) required to generate microwave radiation in the 35 gigahertz range. The National Bureau of Standards (NBS) advises in its memorandum dated September 5, 1978 that (1) the specification described above is pertinent to the applicant's intended use and (2) it knows of no domestic instrument of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-28965 Filed 10-12-78; 8:45 am]

[3510-25-M]

UNIVERSITY OF CALIFORNIA, DAVIS SCHOOL OF VETERINARY MEDICINE ET AL.

Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, Bureau of Trade Regulation, U.S. Department of Commerce, Washington, D.C. 20230, on or before November 2, 1978.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 a.m. and 5 p.m., Monday through Friday, in Room 6886C of the Department of Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00422. Applicant: University of California, Davis, School of Veterinary Medicine, Davis, Calif. 95616. Article: Electron Microscope, Model EM 10A and accessories. Manufacturer: Carl Zeiss, West Germany. Intended used of article: The article is intended to be used for ultrastructural studies of animal tissues and morphological investigations of animal virus structures. The most important projects for which the article is to be used as an essential investigative tool are:

I. Pulmonary effects of environmental oxidant pollutants.
II. Ultrastructural characterization of animal viruses.
III. Ultrastructural pathology of the musculoskeletal system.
IV. Trypanosomiasis.
V. Abortion in cattle and sheep.
VI. Procedures for rapid viral diagnosis.
VII. Special post mortem diagnostic procedures.
VIII. Effects of beta/lysins and cationic proteins on morphology of bacteria.

Undergraduate, graduate and professional (veterinary) students in the following courses will use the article during laboratory exercises and for examining specimens.

1. Anatomy 205—Ultramicroscopic Anatomy.
2. Pathology 282—Tumor Pathology.
3. Pathology 299—Research in Veterinary Pathology.
4. Veterinary Microbiology 128—Biology of Animal Viruses.
5. Veterinary Microbiology 130—Animal Virology Laboratory.
6. Veterinary Microbiology 299—Research.
7. Veterinary Medicine 150B—Agents of Disease and Host Responses.

Application received by Commissioner of Customs: September 13, 1978.

Docket No. 78-00426. Applicant: Medical College of Ohio, Department of Pathology, C.S. 10008, Toledo, Ohio 43699. Article: LKB 2128-010/Ultrotome IV Ultramicrotome and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to section biological materials (human and animal tissues) which have been embedded in hardened epoxy resins for sectioning. Experiments to be conducted will include cyto and histochemical studies of enzyme and subcellular organelle localization in cells and tissues and subcellular changes in cells induced by changes due to infectious agents, biochemical and/or physical environments. In addition, the article will be used in the course diagnostic electron microscopy to introduce students to the principles and techniques of electron microscopy in order to apply gained knowledge to diagnostic pathology. Application received by Commissioner of Customs: September 14, 1978.

Docket No. 78-00427. Applicant: Yale University, Biology Department, Kline Biology Tower, New Haven, Conn. 06520. Article: LKB 2088 Ultrotome V Ultramicrotome with LKB 14800-3 Cryokit and accessories. Manufacturer: LKB Produkter AB, Sweden Intended use of article: The article is intended to be used for studies of cell ultrastructure and intracellular localization of elements in: (a) Plant cells that undergo large rhythmic and light-regulated changes in turgor: (b) protoplasts isolated from cereals and regenerating new walls; (c) cells of plants subjected to gravitational stimulation; (d) cells of plants subjected to environmental pollutants; (e) pathological and normal tissue from animals and plants. The article will also be used in the course Cell Biology by advanced students who are learning cryoultramicrotomy. Application received by Commissioner of Customs: September 18, 1978.

Docket No. 78-00428. Applicant: Veterans' Adminstration Hospital, 1400 V.F.W. Parkway, West Roxbury, Mass. 02132. Article: LKB 2088 Ultrotome V Ultramicrotome and accessories. Manufacturer: LKB Produkter AB, Sweden Intended use of article: The article is intended to be used to section biological materials for ultrastructural studies on normal and pathologic tissues, developmental studies on fungal and bacterial systems, cyto and histochemical studies on enzyme and subcellular organelle localization in cells and tissues, membrane interactions at cell-cell interfaces, and subcellular changes in cells induced by changes in their biochemcial and physical enviroments. The objective pursued in the course of these investigations is to understand early pathological alterations in tissues (as induced in amimal models) and to correlate these changes in clinical alterations seen in human diseased tissues. Application received by Commissioner of Customs; September 18, 1978.

Docket No. 78-00429. Applicant: Purdue University, ADMS Building, West Lafayette, Ind. 47907. Article: Electron Microscope, Model JEM 100CX and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used to do diagnostic virology. The research is directed toward three main areas: Nervous system, skeletal system, and the heart. The main direction of the research involving the nervous system consists of the prenatal development of neuroblasts and their processes and a study of a gangliosidosis in the dog. The second main area of research involving the nervous system is directed to the characterization of a gangliosidosis of dogs as a model for better understanding of a similar disease of man. A continuing study of the skeletal system of animals, particularly the portion directed toward the understanding of the development of secondary centers of ossification will be conducted. The article will also be used for the study of the response of heart muscle to deficiency disease. Application received by Commissioner of Customs: September 18, 1978.

Docket No. 78-00430. Applicant: University of Florida, Institute of Food and .Agricultural Sciences, McCarty Hall, Department of Microbiology, Gainesville, Fla. 32611. Article: Electron Microscope, Model JEM-100CX with standard side entry and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used to examine and analyze biological materials ranging from naked DNA to viruses to bacteria to single-celled eucaryotes to whole organisms. Ultrastructure of the development and subcellular organelles in the above-listed biological materials will be done. In addition, the article will be used in the courses MCS 653, Electron Microscope Techniques and MCS 655 EM Cytochemistry to give students thorough training in EM techniques so that they may use the article in their dissertation research. Application received by Commissioner of Customs: September 18, 1978.

Docket No. 78-00431. Applicant: New York University Medical School, 550 First Avenue, New York, N.Y. 10016. Article: Electron Microscope, Model JEM-100S and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for studies of cultured cells of the animal nervous system including clonal lines with neuronal properties. Various types of cells from animal tumors will be studied as well as biopsy specimens from the human and animal nervous system. The experiments to be conducted will involve studying the organization of subcellular fibrous organelles and their alterations during the development and aging process as well as the changes which they might undergo in neoplastic transformation. Attempts will be made to experimentally alter the distributions and connections of these organelles. Other studies will be done to monitor the subcellular fractionation and purification of both fibrous organelles and membranes from tissues as a correlate to biochemical studies. In addition, the article will be used to instruct graduate students, students in the M.D.-Ph. D. program and postdoctoral fellows in the basic techniques of electron microscopy and their application to the study of drug mechanisms of actons and drug effects on living systems. Application received by Commissioner of Customs: September 18, 1978.

Docket No. 78-00432. Applicant: Northwestern University, Chemistry Department, Evanston, Ill. 60201. Article: Rare Gas Halide Laser Kit and Accessories. Manufacturer: Lumonics Research, Canada. Intended use of article: The article is intended to be used to create large quantities of molecular fragments which will be studied with respect to measuring the initial energy distribution of these fragments. This will allow for the testing and formulation of theories of chemical dynamics and the reactivity of excited molecules. In another set of experiments the article will be used as a HF laser to pump energy into overtone vibrations of molecules. The reactivity of these excited molecules will then be studied. In a third set of experiments, the output of this laser will be used in the 300—nm region of the spectrum to pump a dye laser which will then be used to probe excited state molecular fragment energy distributions. The article will also be used in nonlinear optics experiments in which high peak power is very important. Application received by Commissioner of Customs: September 18, 1978.

Docket No. 78-00433. Applicant: Wayne State University, 540 East Canfield Avenue, Detroit, Mich. 48201. Article: LKB 2088 Ultrotome V Ultramicrotome and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for the study of a variety of mammalian tissues, organs, and glands in addition to isolated cells, membrane fragments, and other cellular components. Investigations will include ultrastructural studies of the effects of a variety of drugs on whole mammalian exocrine glands, and dispersed glandular cell preparations, toxicological studies of agents affecting the liver cytochemical localization of enzymes in inner mitochondria membrane preparations and in isolated vas deferens membranes and ultrastructural changes induced by drugs or ionic shifts in cardiac muscle fibers. A workshop entitled "Basic Techniques in Electron Microscopy" is the instructional course in which this instrument will be used. The workshop is intended as an introduction to the techniques of specimen preparation and to the use of the electron microscope as a tool for studying biological fine structure and various subcellular organelles. Application received by Commissioner of Customs: September 22, 1978.

Docket No. 78-00435. Applicant: Harvard Medical School, 25 Shattuck Street, Boston, Mass. 02115. Article: LKB 2258 PMV Cryo-Microtome and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for studies of biological materials, specifically tissue from animal spe-

cials, such as monkey, cat, and rodents. Whole unfixed frozen animals' brains will be mounted in matrix of carboxylmethyl cellulose frozen in metal frames and then sectioned at a relatively low temperature. The investigation includes measuring the rates of glucose consumption in the central nervous system by using the (C^{14}) 2-deoxyglucose method and the autoradiography technique, followed by histological examination of the cells' morphology. The objectives of this research are to demonstrate the anatomical system and the function of the visual cortex's two independent systems: The ocular dominance columns and the orientation columns. Application received by Commissioner of Customs: September 22, 1978.

Docket No. 78-00437. Applicant: Northwest Community Hospital, 800 West Central Road, Arlington Heights, Ill. 60008. Article: LKB 2128-010 Ultrotome IV Ultramicrotome and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for studies of biological materials, especially human tissues from surgically excised specimens, autopsy tissue, body fluids, and blood cells, bacteria and fungi. Many tumor specimens, as well as kidney and liver biopsies, will be sectioned. Ultrastructural studies on human tissues, cells, or by-products will be performed for the purposes of diagnosis of disease and elucidation of disease mechanisms. This will probably include ultramicroscopic, histochemical, and immunologic techniques. Application received by Commissioner of Customs: September 22, 1978.

Docket No. 78-00438. Applicant: University of Colorado, Purchasing Services Department, Willard Administrative Center, No. 160, Boulder, Colo. 80309. Article: LKB 8800A Ultrotome III Ultramicrotome and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to section biological materials (cells and tissues). The experiments to be conducted will consist of ultrastructure of normal and transformed cells and tissues with special emphasis on three-dimensional organization visualized through use of thick sections in a high-voltage electron microscope. Ultimately experiments will concentrate on such visualization in frozen materials. In addition, the article will be used in the courses MCDB-132 Cell and Tissue Biology and MCDB-513 Advanced Topics in Electron Microscopy in hopes of increasing expertise in various research areas handled by electron microscopy and specimen sectioning. Application received by Commissioner of Customs: September 22, 1978.

Docket No. 78-00439. Applicant: Louisiana State University Center for Agricultural Sciences and Rural Development, Department of Plant Pathology and Crop Physiology, Life Sciences Building, Baton Rouge, La. 70803. Article: LKB 2088 Ultrotome V Ultramicrotome and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to section plant material which is infected, healthy plant materials used as controls and insects which are involved in the infections process. These sections will be viewed with the electron microscope to determine what the pathogen is, where it is located and what effect it has on the plant's ultrastructure. These studies will be constructed to identify the pathogens involved in these plant diseases and to learn more about these pathogens. In addition, the article will be used in the courses Plant Virology and Methods in Plant Pathology to furnish graduate level training in plant pathology. Application received by Commissioner of Customs: September 22, 1978.

Docket No. 78-00440. Applicant: The Regents of the University of California, Irvine, Calif., California College of Medicine, Irvine, Calif. 92717. Article: Electron Microscope, Model EM-400 and accessories. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used to examine tissues at low, intermediate, and high magnification, to examine freeze-etch replicas of biological membranes and tissue sections at various magnifications, for various applications of histochemical procedures from low to high magnification, to examine thick specimens, to examine stereo pairs of membranes and various tissues with both freeze-etch and thin section preparations, and to apply analytical electron microscopy to various tissue systems. Examples of the research projects include:

(1) Diabetic angiopathy and neovascularization.
(2) Identity of nascent capillaries.
(3) Investigation of localization of ^{125}I-insulin on purified plasma membrane preparations.
(4) Investigation of stereo pairs of biological materials.
(5) Studies of the endocrine pancreas in streptozotocin-induced diabetic mice.

The article will also be used in an electron microscope course being designed for graduate students and research fellows. In this course, the techniques and applications of EM will be heavily emphasized, and an independent EM project will be expected. Application received by Commissioner of Customs: September 22, 1978.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-28966 Filed 10-12-78; 8:45 am]

[3510-25-M]

UNIVERSITY OF FLORIDA, DEPARTMENT OF CHEMISTRY, ET AL

Consolidated Decision on Applications for Duty Free Entry of Nuclear Magnetic Resonance Spectrometers

The following is a consolidated decision on applications for duty-free entry of nuclear magnetic resonance spectrometers pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301). (See especially § 301.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 78-00103. Applicant: University of Florida, Department of Chemistry, 109 Leigh Hall, Gainesville, Fla. 32611. Article: JNM/FX-100 High Resolution Fourier Transform Multi-Nuclear Magnetic Resonance System, with accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for the following research involving standard proton and carbon spectra for structure determination:

(1) Investigation of whether certain carbonium ions are static bridged species or occur as an equilibrating mixture of two or more forms.
(2) Investigation of the kinetics of the isoindene photoisomerization and thermal reversion.
(3) Relaxation time measurements, particularly $T_{1\rho}$, to distinguish these mechanisms and to measure the mobility of the reporter molecules. $T_s/T_{1\rho}$ studies to investigate molecular motions over a longer time scale than those affecting T_1. Similarly the binding of anthracycline antitumor drugs to DNA is under investigation; kinetic studies of drug/DNA complexing and dissociation will be facilitated by the auto-stacking capability of the article.
(4) Determination of the stereochemistry of polymer end groups and inter-conversion rates of carbanion rotamers will be investigated using the auto-stacking and $T_{1\rho}$ features.
(5) $T_{1\rho}$ measurements to determine the locations of the metal atom in the exchanging species and the effects of UV irradiation in situ on various metal complexes will be tested.

(6) The study of osmotic membranes using relaxation time measurements to follow the behavior of water molecules at the membrane.

(7) The study of the kinetics of the sulfite ion cleavage of thiamine in the presence of other nucleophiles using the auto-stacking feature and to search for a sulfite ion adduct by proton and carbon $T_{1\rho}$ measurements at the ring sites.

(8) Synthesis of polymers by use of novel organic reactions, a study of the mechanisms of the polymerization reactions, and determination of the fundamental physical properties of the polymers.

(9) Research devoted to the synthesis and synthetic use of novel heterocyclic systems.

(10) The study of reversible and irreversible rearrangement processes in organometallic σ-complexes at low concentrations.

(11) Use of relaxation times of proton and carbon resonance as a probe of the transport of paramagnetic and quadrupolar ions.

(12) Relaxation time measurements on substances related to cell wall materials.

Application received by Commissioner of Customs: January 23, 1978. Advice submitted by the Department of Health, Education, and Welfare on: August 20, 1978. Article ordered: September 16, 1977.

Docket No. 78-00207. Applicant: University of Oklahoma, 1000 Asp Avenue, Room 314, Norman, Okla. 73019. Article: Nuclear Magnetic Resonance Pulse Spectrometer, Model CPS-2 and Accessories. Manufacturer: Spin-Lock Ltd., Canada. Intended use of article: The article is intended to be used for the study of the motional behavior of water and sodium ions in muscle, collagen and other body tissues in laboratory animals in the aging process. The two techniques which will be used in this project are the study of spin-spin relaxation time in the rotating framework (T_1) and self-diffussion coefficient by applying pulse magnetic field gradient. Continued studies of the effect of cross-linking of collagen on interaction between ATP and collagen molecules, will also be conducted. Application received by Commissioner or Customs: April 13, 1978. Advice submitted by the Department of Health, Education, and Welfare on: August 13, 1978. Article ordered: March 22, 1978.

Docket No. 78-00252. Applicant: Vanderbilt University (Chemistry Department), Nashville, Tenn. 37235. Article: JNM/FX-90Q High Resolution Fourier Transformation Multi-Nuclear Magnetic Resonance Spectrometer System and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used in a wide range of different experiments in the areas of organic chemistry, inorganic chemistry, analytical chemistry, biochemistry, pharmacology and related biomedical sciences. Categories of the principal research projects which will use the article are:

(i) Characterization of newly synthesized organic compounds including (1) alkaloids, (2) polyketides, (3) terpenes, (4) prospective drugs, (5) nonbenzenoid polycyclic aromatic compounds, (6) novel chelating agents, (7) novel amino acids and (8) intermediates in their synthesis.

Docket No. 78-00109. Applicant: University of California, 1156 High Street, Santa Cruz, Calif. 95064. Article: JNM/FM-100R Nuclear Magnetic Resonance Spectrometer and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for a large variety of research studies of molecular structure, molecular association, and molecular dynamics for biochemical, organic chemical, biological, and marine studies problems. These research applications will consist of the following:

1. The Structure and Dynamics of Lipids in Biological Membranes.
2. NMR Characterization of Enzyme-Substrate Intermediate Trapped at Subzero Temperatures.
3. Mechanisms of RNA Protein Interactions.
4. Natural Products Chemistry of Marine Organisms.
5. New Synthetic Methods and Their Use in Natural Product Total Synthesis.

The article will also be used for educational purposes in the following chemistry courses:

Chemistry 135. Biophysical Chemistry.
Chemistry 140. Advanced Organic Laboratory.
Chemistry 164. Physical Chemistry Laboratory.
Chemistry 180A-B-C. Senior Research.
Chemistry 199. Tutorial.
Chemistry 243. Physical Properties and Molecular Structure.
Chemistry 299. Thesis Research.

Application Received by Commissioner of Customs: January 26, 1978. Advice submitted by the Department of Health, Education, and Welfare on: August 21, 1978. Article order: October 12, 1977.

(ii) *Characterization of novel organic compounds obtained from natural sources* including terpenes, alkaloids, polyketides and compounds of uncertain classification.

(iii) *Metabolic studies of natural products in the organism from which they originate.* Biosynthesis of terpenes, polyketides, alkaloids and aromatic amino acids; studies of the further transformations of these natural products by the organisms.

(iv) *Metabolism of natural products in organisms other than those from which they originate.* Metabolic activation of relatively harmless natural substances to form toxic compounds.

(v) *Metabolism of synthetic compounds.* In particular, the metabolic fate of drugs in mammalian systems. Example: metabolism of barbiturates and hydantoins.

(vi) *Characterization of the products of enzyme-mediated reactions.* On example would be the characterization of products of enzymic hydrolysis of N-acyl derivatives of complex amino acids as a method for determining absolute configurations.

(vii) *Structural studies of novel organometallic compounds and inorganic complexes.* (1) Transition metal carbene complexes, (2) chelates of metalloacetylacetonates, (3) coordination compounds of the antitumor agent cyclophosphamide.

(viii) *Dynamic studies.* (1) Mechanism of antibiotic action of the ristocetin-group antibiotics—a study of the association of aliphatic peptides with the antibiotics to determine the site of binding, (2) studies of the molecular basis of toxicity of compounds such as moniliformin which appear to owe their toxicity to reversible binding processes, (3) identification of active coordination sites for heavy metals in multidentate chelating agents containing several polarizable sites, (4) studies of isomer-conformer equilibra in chiral compounds such as clozapine which derive asymmetry from ring distortions.

In addition, the article will be used for teaching purposes in several courses, the most important being Chemistry 221, Laboratory Techniques in Organic Chemistry and Chemistry 222, Advanced Organic Chemistry. Application received by Commissioner of Customs: May 30, 1978. Advice submitted by the Department of Health, Education, and Welfare on: August 22, 1978. Article ordered: March 13, 1978.

Comments: No comments have been received in regard to any of the foregoing applications.

Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for the purposes for which the articles are intended to be used, was being manufactured in the United States at the time the articles were ordered.

Reasons: Each foreign article provides the capability for making T_{1rho} measurements. The Department of Health, Education, and Welfare (HEW) advises in its respectively cited memoranda that the specification of each article described above is pertinent to the purposes for which each of the foreign articles to which the foregoing applications relate is intended to be used. HEW also advises that it knows of no domestic instrument which provided the pertinent specification at the time the articles were ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which was being manufactured in the United States at the time the articles were ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-28967 Filed 10-12-78; 8:45 am]

[3510-25-M]

TELECOMMUNICATIONS EQUIPMENT TECHNICAL ADVISORY COMMITTEE

Meeting Cancellation

Pursuant to the provisions of section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976) notice was published in 43 FR 43531 on September 26, 1978, that a meeting of the Telecommunications Equipment Technical Advisory Committee would be held on October 17, 1978. This is a notice that the meeting has been cancelled.

Dated: October 10, 1978.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of Trade Regulation, Department of Commerce.

[FR Doc. 78-29005 Filed 10-10-78; 3:39 pm]

[3510-22-M]

National Oceanic and Atmospheric Administration

GULF OF MEXICO FISHERY MANAGEMENT COUNCIL; GROUNDFISH ADVISORY SUBPANEL

Meeting

AGENCY: National Marine Fisheries Service, NOAA.

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council was established by the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), and the Council has established an Advisory Subpanel on Groundfish. This panel will meet to review a draft fishery management plan.

DATES: The meeting will convene on Monday, October 30, 1978 at 10 a.m. and adjourn at 5 p.m.; and Tuesday, October 31, 1978, at 8 a.m. and adjourn at 3 p.m. The meeting is open to the public.

ADDRESS: The meeting will take place in the Capri Room of the International American Motor Inn, 2601 Severn Avenue, Metairie, La.

FOR FURTHER INFORMATION CONTACT:

Wayne Swingle, Executive Director, Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Fla. 33609, telephone 813-228-2815.

Dated: October 6, 1978.

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

[FR Doc. 78-28843 Filed 10-12-78; 8:45 am]

[3510-22-M]

NORTH PACIFIC FISHERY MANAGEMENT COUNCIL

Meeting

AGENCY: National Marine Fisheries Service, NOAA.

ACTION: Amended meeting notice.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C., appendix I, notice is hereby given of a change in the agenda, dates, and location for the separate and joint meetings of the North Pacific Fishery Management Council and its SSC and AP (FR Vol. 43, No. 189, p. 44562, dated Sept. 28, 1978).

DATES: The SSC will meet separately on Wednesday, October 25, 1978, and on Thursday, October 26, 1978, (instead of November 1, 1978) convening at 10 a.m. and adjourning at approximately 5 p.m. on both days. The meeting may be extended depending upon progress of the agenda.

ADDRESS: The SSC on Wednesday, October 25, 1978, and on Thursday, October 26, 1978, will meet at the Northwest and Alaska Fisheries Center, 2725 Montlake Boulevard, East, Seattle, Wash. 98112.

FOR FURTHER INFORMATION CONTACT:

Mr. Jim H. Branson, Executive Director, North Pacific Fishery Management Council, P.O. Box 3136DT, Anchorage, Alaska 99510, telephone 907-274-4563.

SUPPLEMENTARY INFORMATION: All council, SSC, and AP meetings will be open to the public. For imformation on seating arrangements, changes to the agenda, and/or written comments, contact the Executive Director.

PROPOSED AGENDA

OCTOBER 25-26, 1978

The proposed agenda for the SSC will also include a discussion of the FMP's, "High Seas Salmon Fishery Off the Coast of Alaska East of 175° E. longitude," "Halibut Off the Coast of Alaska," and "Bering Sea and Aleutian Islands Groundfish Fishery."

NOVEMBER 3, 1978

(1) The proposed agenda for November 3, joint meeting, will also include a discussion and probable decision on proposed amendments to the tanner crab FMP which primarily deal with a request by the Japanese Tanner Crab Association to be allowed to fish south of 58° N. latitude and west of 171° or 173° W. longitude in the event of severe winter icing and completion of the U.S. fishery in that area. Additionally, the Council will consider all public comments received on the FMP "High Seas Salmon Fishery Off the Coast of Alaska East of 175° E. longitude," and adopt a proposed management regime to be reviewed again on November 30 and December 1, for submission to the Secretary of Commerce.

Dated: October 6, 1978.

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

[FR Doc. 78-28845 Filed 10-12-78; 8:45 am]

[3510-22-M]

SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL

Meeting

AGENCY: National Marine Fisheries Service, NOAA.

ACTION: Notice of public meeting.

SUMMARY: The South Atlantic Fishery Management Council, established by the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), will meet to discuss: (1) Progress of snapper-grouper FMP; (2) status of swordfish FMP; (3) discussion on billfish FMP; (4) review of foreign fishing permits; (5) review of mackerel, coral, stone crab and other species on target for FMP's; and (6) other management business.

DATES: The meeting will convene on Tuesday, October 31, 1978, at approximately 1 p.m. and adjourn on Thursday, November 2, 1978, at approximately 12 noon. This meeting is open to the public.

ADDRESS: The meeting will take place at Quality Inn, Cordillo Parkway, Hilton Head Island, S.C.

FOR FURTHER INFORMATION CONTACT:

Ernest D. Premetz, Executive Director, South Atlantic Fishery Management Council, 1 Southpark Circle, Suite 306, Charleston, S.C. telephone 803-571-4366.

SUPPLEMENTARY INFORMATION:

For information on seating arrangements, changes to the agenda, and/or written comments, contact the Executive Director.

Dated: October 6, 1978.

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

[FR Doc. 78-28844 Filed 10-12-78; 8:45 am]

[3510-25-M]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

FEDERATIVE REPUBLIC OF BRAZIL

Increasing Import Restraint Level for Certain Cotton Apparel Products

OCTOBER 10, 1978.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Increasing the import restraint level established for women's, girls', and infants' cotton knit shirts and blouses in category 339, exported from Brazil during the year which began on April 1, 1978.

(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: Paragraphs 5 and 8 of the Bilateral Cotton Textile Agreement of April 22, 1976, as amended, between the Governments of the United specific ceilings may be increased by designated percentages and that under specified conditions shortfalls in certain category ceilings during one agreement year may be applied to those ceilings in the succeeding agreement year. Pursuant to these provisions of the bilateral agreement, the level of restraint for category 339 is being increased to 250,573 dozen for the 12-month period which began on April 1, 1978 and extends through March 31, 1979.

EFFECTIVE DATE: October 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Donald R. Foote, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230, 202-377-5423.

SUPPLEMENTARY INFORMATION: On July 12, 1978, a letter dated July 7, 1978 was published in the FEDERAL REGISTER (43 FR 29975) from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs which established the levels of restraint applicable to certain specified categories of cotton textile products under the new textile category system, which have been produced or manufactured in Brazil and exported to the United States during the 12-month period which began on April 1, 1978. In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to permit entry of cotton textile products in category 339, produced or manufactured in Brazil, at the increased level of 250,573 dozen during the agreement year which began on April 1, 1978.

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Domestic Business Development.

OCTOBER 10, 1978.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C.

DEAR MR. COMMISSIONER: On July 7, 1978, the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry during the 12-month period beginning on April 1, 1978 and extending through March 31, 1979 of cotton textiles and cotton textile products in certain specified categories, produced or manufactured in Brazil, in excess of designated levels of restraint. The Chairman further advised you that the levels of restraint are subject to adjustment.[1]

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to paragraphs 5 and 8 of the Bilateral Cotton Textile Agreement of April 22, 1976, as amended, between the Governments of the United States and the Federative Republic of Brazil; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed, effective on October 10, 1978, to amend the 12-month level of restraint established for cotton textile products in category 339 to 250,573 dozen.[2]

The actions taken with respect to the Government of the Federative Republic of Brazil and with respect to imports of cotton textile products from Brazil have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Domestic Business Development.

[FR Doc.78-28961 Filed 10-12-78; 8:45 am]

[1] The term "adjustment" refers to those provisions of the Bilateral Cotton Textile Agreement of April 22, 1976 between the Governments of the United States and the Federative Republic of Brazil, as amended, which provides, in part, that: (1) Within the aggregate and applicable group limits, specific levels of restraint may be exceeded by specified percentages; (2) these levels may be increased within the aggregate and applicable group limits upon agreement between the two Governments; (3) consultation levels may be increased within the aggregate and applicable group limits upon agreement between the two Governments; and (4) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

[2] The level of restraint has not been adjusted to reflect any entries after March 31, 1978.

[6820-33-M]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1978

Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has received proposals to add to Procurement List 1978 commodities to be produced by and a service to be provided by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: November 15, 1978.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 1009 14th Street North, Suite 610, Arlington, Va. 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, 703-557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities and the service listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and the service to Procurement List 1978, November 14, 1977 (42 FR 59015):

CLASS NONE

Mattress, bed, innerspring (commercial), 38"×75", 53"×75".

SIC 7399

Labeling of supplies, Defense Depot Mechanicsburg, Mechanicsburg, Pa.

CLASS NONE

Strap, mail tray, Postal Service Item No. 01067.

C. W. FLETCHER,
Executive Director.

[FR Doc. 78-28959 Filed 10-12-78; 8:45 am]

[6820-33-M]

PROCUREMENT LIST 1978

Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to Procurement List.

SUMMARY: This action adds to Procurement List 1978 a service to be provided by and a commodity to be produced by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: October 13, 1978.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Va. 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher 703-557-1145.

SUPPLEMENTARY INFORMATION: On July 14, 1978 and August 11, 1978 the Committee for Purchase from the Blind and Other Severely Handicapped published notices (43 FR 30330 and 43 FR 35744) of proposed additions to Procurement List 1978, November 14, 1977 (42 FR 59015).

After consideration of the relevant matter presented, the Committee has determined that the service and the commodity listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77.

Accordingly, the following service and commodity are hereby added to Procurement List 1978:

SIC 7349

Janitorial/custodial service at the following U.S. Army Reserve centers in Massachusetts:

1. Belmont and Manley Streets, Brockton.
2. 915 West Chestnut Street, Brockton.
3. John Williams Street, Attleboro.
4. 675 American Legion Highway, Roslindale.
5. 130 Eldridge Street, Taunton.

CLASS 6230

Lantern, electric, head 6230-00-643-3562.

C. W. FLETCHER,
Executive Director.

[FR Doc. 78-28958 Filed 10-12-78; 8:45 am]

[6355-01-M]

CONSUMER PRODUCT SAFETY COMMISSION

[Petition No. CP 78-12]

ESCALATORS

Denial of Petition

AGENCY: Consumer Product Safety Commission.

ACTION: Denial of Petition.

SUMMARY: The Commission denies a petition requesting it to develop a mandatory safety standard addressing risks of injury associated with escalators. The Commission denies the petition because the currently available information is insufficient to indicate that escalators as they are presently constructed and designed present an unreasonable risk of injury to consumers.

FOR FURTHER INFORMATION CONTACT:

Irwin L. Greif, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207, 301-492-6754.

SUPPLEMENTARY INFORMATION: Section 10 of the Consumer Product Safety Act (CPSA) (15 U.S.C. 2059) provides that any interested person may petition the Consumer Product Safety Commission to commence a proceeding for issuance of a consumer product safety rule. Section 10 also provides that if the Commission denies such a petition, it shall publish its reason for denial in the FEDERAL REGISTER.

On April 18, 1978, the Commission received a petition and supporting documents from members of the Ad Hoc Committee for Greater Safety on Escalators, of Cleveland, Ohio. The petition alleged that escalators present an unreasonable risk of injury, particularly to children and the elderly, due to inadequate warning signs and unsafe construction and design. The petition called particular attention to the risk of body parts being pulled into the escalator mechanism.

In analyzing this petition, the Commission considered injury information submitted by the petitioners, its own investigation of injury data, economic and engineering data, and applicable voluntary standards.

Two major hazards patterns emerged from a search of the Commission's National Injury Information Clearinghouse data: Falls, and entrapment of body parts or shoes between moving components of the escalator. Falls appear to be the most common type of accident associated with escalators and usually involve the elderly. Entrapment of shoes, feet, hands, and so forth is the second most common type of accident associated with escalators. This hazard seems to involve primarily children under 12.

The causes of entrapment accidents are generally quite specific—the victim is typically wearing soft soled shoe which becomes caught in the mechanism, or a child is playing on the escalator in such a way as to expose fingers or clothing to moving parts of the escalator. Most reports of falling incidents give only general statements as to cause, such as "lost balance," with no identificable reason for losing balance.

A search of the National Electronics Injury Surveillance System (NEISS) revealed 125 accidents associated with escalators during the period January 1, 1977 through May 31, 1978. The age range of the victims was from five to 65+, with injuries ranging from contusions, to strains and sprains, to lacerations and fractures, with virtually all body parts being affected. A review of 21 in-depth investigation reports dating from 1967-77 disclosed 13 entrapment incidents and eight falls. In addition, 6 deaths involving escalators have been reported to the Commission. It appears that 2 of the 6 deaths may be classified as industrial in nature due to the type of injuries involved. The other 4 victims were injured when they fell down escalators.

Commission investigation reveals that these accidents are occurring in the context of at least 32 billion escalator rides per year, on 18,000 escalator units (a unit is either an up or down escalator).

The Commission notes that many States have statewide elevator and escalator codes. The American National Standards Institute (ANSI) Code for Elevators, Dumbwaiters, Escalators, and Moving Walks (ANSI A17.1), which has been adopted at least as a technical basis for a State code in 22 States, contains many safety features relating to fall, entrapment, and pinching hazards. In addition, Commission staff have been informed that the ANSI Escalator Subcommittee has recently approved and transmitted to the Executive Subcommittee a proposed revision of the escalator standard which would provide for the uniform placement of emergency on-off stop switches and would establish requirements for the size, wording, and location of warning signs for escalators. It is anticipated that this revision will be approved some time before the end of the year.

However, the Commission has noted that the current A 17.1 may be inadequate in two other respects. The injury data involving escalators suggest that the severity of injuries suffered once a foot entrapment occurs may be related to the duration of en-

trapment and the distance the victim is dragged along the length of the escalator before the escalator stops. A 17.1 presently requires one automatic shutoff device (skirt obstruction device) near the lower combplate. Further investigation is needed to determine whether and to what extent increasing the number of skirt obstruction devices on an escalator will reduce the severity of entrapment injuries. In addition, the maximum ⅜" side clearance (between the step and the balustrade) permitted by the ANSI Code may be too large to prevent many entrapment accident.

The Commission has carefully considered the matters raised in the petition and the injury and technical data submitted by the staff. Based on this information, the Commission concludes that considering that millions of consumers use escalators daily, the injury data are insufficient to indicate that escalators present an unreasonable risk of injury. Accordingly, the Commission has denied the petition. In reaching this decision, the Commission considered the relative priority of the risk of injury associated with escalators in the context of Commission resources available for rulemaking for all hazardous consumer products.

The Commission recognizes, however, that skirt obstruction devices and allowable side clearance may be factors in the number and severity of entrapment injuries. Therefore, the Commission has indicated an interest in the staff encouraging an industry effort to determine whether skirt obstruction devices capable of detecting entrapment along the entire length of an escalator, and whether less side clearance than that currently permitted by A 17.1 would appreciably reduce the number and severity of these injuries. If a determination is made that the presence of more skirt obstruction devices and less side clearance would result in a significant reduction in number and severity of entrapment injuries, Commission staff would then encourage and monitor appropriate amendments of ANSI A 17.1.

Copies of the petition and the staff's briefing package to the Commission on the petition may be obtained from the Office of the Secretary, Consumer Product Safety Commission, 1111 18th Street NW., Washington, D.C. 20207.

Dated: October 10, 1978.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

[FR Doc. 78-29008 Filed 10-12-78; 8:45 am]

[3710-08-M]

DEPARTMENT OF DEFENSE

Department of the Army

DISCHARGE REVIEW BOARDS

Modification of Army, Navy, and Air Force Discharge Review Boards Index

Notice is made that the Army, Navy, and Air Force Discharge Review Boards have modified the index which was published in the FEDERAL REGISTER of February 18, 1977 (42 FR 10028). There is no change in the purpose and publication schedule previously announced.

The basic purpose of this modification is to include in the subject listing of the index, terminology contained in DOD Directive 1332.28 that was published in the FEDERAL REGISTER on March 31, 1978 (43 FR 13564). Modification for this purpose was specifically ordered on August 23, 1978, in the case of *Urban Law Institute of Antioch College, Inc., et. al.*, v. *Secretary of Defense*, No. 76-0530 (D.D.C., Aug. 23, 1978). Other modifications were made to publicly explain the use of the index, and to better conform the subject listing in accordance with terminology basic to the discharge process in the military services.

The new indexing procedure will improve the access of applicants, counsel and the public to the decisions of the Discharge Review Boards. The Department of Defense has been ordered by the District Court to use the new terminology in the index scheduled to be published in the last week of November 1978. This will entail indexing several thousand decisions under the new terminology. In order to accomplish this task in an efficient and effective manner, the military departments must begin immediately to use the new index terminology. Therefore, notice and prepublication of the new terminology for public comment is impracticable, unnecessary, and contrary to the public interest.

Effective date: October 6, 1978.

Dated: October 6, 1978.

WILLIAM E. WEBER,
Colonel, IN, President, Army Discharge Review Board.

SUBJECT/CATEGORY LISTING

TO ACCOMPANY THE

ARMED FORCES DISCHARGE REVIEW/CORRECTION BOARDS INDEX

FOREWORD

This listing is provided for use with the Armed Forces Discharge Review/Correction Boards Index. Its purpose is to assign numerical codes to various "Reasons for Discharge" used in the index in connection with discharge cases, and to issues which have been identified as being addressed in both discharge and other types of cases.

This listing reflects a modification of Section I (Discharge Cases) to incorporate the terminology contained in Department of Defense Directive 1332.28, Discharge Review Board (DRB) Procedures and Standards. Discharge review cases listed in the Basic Index and Index Supplements 1, 2, 3, and 4 were indexed using the listing in section IA. Discharge review cases listed in Supplement 5 (Nov. 78) and all subsequent supplements will be indexed using the listing in section IB. Section II (Nondischarge Cases) is unchanged from the original version.

This document is maintained and published by the DA Military Review Boards Agency as proponent agency for the Department of Defense. (DA Military Review Boards Agency, SFBA, Room 1E520, The Pentagon, Washington, D.C. 20310.)

CONTENTS

Section I—Discharge Case Index Numbers.
A—Index numbers used to index discharge cases listed in Basic Index and Supplements 1-4 (Numerical Codes 001.00-009.99).
B—Index numbers used to index discharge cases listed in Supplement 5 and all subsequent Supplements (Numerical Codes A00.01-A99.99).
Section II—Index numbers used to index nondischarge cases listed in Basic Index and all Supplements (Numerical Codes 100.00-199.99).

SECTION IA

Index numbers used to index discharge cases listed in Basic Index and Supplements 1-4.

(Numerical Codes 001.00-099.99)

DISCHARGE REVIEW BOARD INDEX

A

(01.00) Absence without leave
(01.01) Less than 30 days
(01.02) Less than 60 days
(01.03) Less than 1 year
(01.04) One year or longer
(02.00) Abuse of Discretion
(72.00) Activation From Reservist Status (Sufficiency)
(03.00) Administrative Discharge Board Hearing
(03.01) Command influence
(03.02) Composition of Board—proper and adequate
(03.03) Composition of Board—improper or inadequate
(03.04) Counsel—proper and adequate
(03.05) Counsel—ineffective or absence of
(03.06) Counsel—nonlawyer
(03.07) Evidence—proper and adequate
(03.08) Evidence—irrelevant or immaterial
(03.09) Evidence—hearsay
(03.10) Evidence—preservice
(03.11) Recommendation—proper and adequate
(03.12) Recommendation—arbitrary
(03.13) Recommendation—too harsh
(03.14) Right of cross-examination
(03.15) Right to appear
(03.16) Witness—denial
(03.17) Witness—availability
(03.18) Other
(04.00) Administrative Discharge Process
(04.01) Commander's report/record—complete and inadequate
(04.02) Commander's report/record—incomplete or inadequate

(04.03) Counseling—proper and adequate
(04.04) Counseling—lack of or adequate
(04.05) Discharge authority/action—proper and adequate
(04.06) Discharge authority/action—improper or inadequate
(04.07) Discharge authority/action—delegation
(04.08) Expeditious discharge
(04.09) Failure to follow regulations
(04.10) Hearing—proper and adequate
(04.11) Hearing—improper or denied
(04.12) Legal counsel—proper and adequate
(04.13) Legal counsel—ineffective or absence of
(04.14) Legal counsel—nonlawyer
(04.15) Medical and psychiatric report—proper and adequate
(04.16) Medical and psychiatric report—lack of or inadequate
(04.17) Notice—proper and adequate
(04.18) Notice—lack of or inadequate
(04.19) Notice—not timely
(04.20) Rehabilitative transfer/effort—proper and adequate
(04.21) Rehabilitative transfer/effort—inadequate or denied
(04.22) Statements submitted
(04.23) Statement not submitted
(04.24) Waiver—proper and adequate
(04.25) Waiver—unknowing or unintelligent
(04.26) Waiver—coerced
(04.27) Other
(05.00) AFQT Scores
(05.01) Improper or inadequate
(05.02) Considered as an indication of ability to perform
(06.00) Alcohol
(06.01) Alcoholism
(06.02) Alcohol-related offenses
(07.00) Arbitrary/Capricious Command Action
(07.01) Board actions
(07.02) Good of service discharge
(07.03) Expeditious trainee discharges
(07.04) Civil convictions discharges
(08.00) Article 32
(09.00) Article 138 Complaint
(10.00) AWOL
(10.01) Extenuating/mitigating factors—length
(10.02) Extenuating/mitigating factors—voluntary return
(10.03) Extenuating/mitigating factors—personal
(10.04) Unjustified
(10.05) Other

B

(11.00) Bad Conduct Discharge
(11.01) Equitableness of
(11.02) Legal sufficiency
(11.03) Other

C

(12.00) Civil Conviction
(12.01) Appellate process not completed
(12.02) Status changed subsequent to discharge
(12.03) Current standards
(13.00) Combat Duty
(14.00) Combat Service
(14.01) Board actions
(14.02) Good of service discharges
(14.03) Civil conviction discharges
(15.00) Confession
(15.01) Proper and adequate
(15.02) Article 31
(16.00) Conscientious Objection
(16.01) Board actions
(16.02) Good of service discharges
(17.00) Conscientious Objector
(17.01) Proper and adequate denial
(17.02) Improper or inadequate denial
(17.03) Eligible
(17.04) No application
(76.00) Convenience of the Government
(18.00) Conviction by Civilian/Foreign Court
(18.01) Aggravating—nature of offense
(18.02) Aggravating—sentence
(18.03) Extenuating/mitigating—nature of offense
(18.04) Extenuating/mitigating—sentence
(18.05) Extenuating/mitigating—drug
(18.06) Extenuating/mitigating—alcohol related
(18.07) Extenuating/mitigating—pardon
(18.08) Rights
(18.09) Status change subsequent to discharge
(18.010) Other
(19.00) Counseling
(19.01) Improper or inadequate
(19.02) No opportunity
(73.00) Courts Martial
(73.01) Conviction/special
(73.02) Conviction/summary
(73.03) Due process error
(73.04) Inadequate/improper counsel

D

(20.00) Demotion Board
(21.00) Desertion
(22.00) Discharge Based on Conduct Previously Considered at Administrative/Judical Process
(22.01) Board actions
(22.02) Good of service discharges
(23.00) Discharge for Good of the Service (Chapter 10)
(23.01) Counseling
(23.02) Procedural error
(23.03) Record of service overall
(24.00) Discrimination
(24.01) Institutional
(24.02) Racial
(24.03) Other
(25.00) Drugs/Possession
(25.01) Aggravation
(25.02) Extenuating, mitigating, aggravating factors
(25.03) Intent to sell inferred
(25.04) Investigative
(25.05) Laird Memo
(25.06) Limited priviledged communications program
(25.07) Post-Laird
(25.08) Pre-Laird
(25.09) Sale/transfer/trafficking
(25.10) Treatment
(25.11) Type, quantity
(25.12) Urinalysis
(25.13) Use/possession
(25.14) Other
(26.00) Drug Sale
(26.01) Extenuating, mitigating, aggravating factors
(26.02) Versus more transfer/agent
(26.03) Other

E

(27.00) Enlistment
(27.01) Enlistment contract—proper and adequate
(27.02) Enlistment contract—breach of
(27.03) Erroneous
(27.04) Other
(28.00) Erroneous Entry
(28.01) Enlistment
(28.02) Induction
(29.00) Executive Clemency
(30.00) Expeditious Discharge
(30.01) Offered counseling
(30.02) Procedural error
(30.03) Record of service overall
(75.00) Expiration of Required Service

F

(31.00) Failure To Pay Debts
(31.01) Dishonorable intent
(30.02) Lack of evidence of dishonorable intent
(32.00) First Amendment
(32.01) Free speech
(32.02) Free assembly
(32.03) Free religion
(32.04) Free political activities
(33.00) Fraudulent Entry
(33.01) Civil record
(33.02) Drug
(33.03) Homosexual
(33.04) Medical disqualifications
(33.05) Mental disqualifications
(33.06) Age
(33.07) Recruiter connivance
(33.08) Prior service
(33.09) Counseling
(33.10) Procedural error
(33.11) Service record overall

G

(34.00) General Misconduct
(34.01) Absenteeism and desertion
(34.02) Bad conduct discharge by special court-martial
(34.03) Civil court disposition
(34.04) Drug abuse
(34.05) Failure to pay just debts
(34.06) Failure to support dependents
(34.07) Fraudulent enlistment
(34.08) Frequent involvement—civil or military
(34.09) Resignation and discharge for the good of the service
(34.10) Sexual perversion
(34.11) Shirking—established pattern

H

(35.00) Hardship
(35.01) Financial
(35.02) Marital/family
(35.03) Medical
(36.00) Homosexuality
(36.01) Aggravating factors—minor
(36.02) Aggravating factors—force
(36.03) Aggravating factors—nondiscreet
(36.04) Extenuating/mitigating factors—youth
(36.05) Extenuating/mitigating factors—isolated
(36.06) Extenuating/mitigating factors—off-base
(36.07) Extenuating/mitigating factors—off-duty
(36.08) Extenuating/mitigating factors—treatment
(36.09) Extenuating/mitigating factors—duress
(36.10) Extenuating/mitigating factors—consenting adults
(36.11) Proper processing
(36.12) Improper processing
(36.13) Tendencies
(36.14) Isolated incidents
(36.15) Confirmed
(36.16) Counseling
(36.17) Procedural error
(36.18) Service record overall
(36.19) Other
(36.20) Current standards
(37.00) Humanitarian Reasons

I

(38.00)

J

(39.00)

K

(40.00)

L

(41.00)

M

(42.00) Medical
(42.01) Treatment
(42.02) Qualifications
(43.00) Medical Discharge
(44.00) Medical Problems
(44.01) Organic
(44.02) Psychiatric
(45.00) Minority Discharge

N

(46.00) Nonfulfillment of Service Contract
(46.01) Board actions
(46.02) Good of service discharges
(74.00) Nonjudicial Punishments
(74.01) Article 15

O

(47.00) Officers
(47.01) Administrative discharge—unfitness (commissioned)
(47.02) Administrative discharge—unacceptable conduct (commissioned)
(47.03) Administrative discharge—in interest of national security (commissioned)
(47.04) Administrative discharge—other (commissioned)
(47.05) Elimination—substandard performance of duty (commissioned)
(47.06) Elimination—moral or professional dereliction (commissioned)
(47.07) Administrative separation—resignation (commissioned and WO)
(47.08) Administrative separation—resignation in lieu of other action (commissioned and WO)
(47.09) Administrative separation—resignation for good of service (commissioned and WO)
(47.10) Administrative separation—discharge upon application (commissioned and WO)
(47.11) Administrative separation—pregnancy (commissioned and WO)
(47.12) Administrative separation—involuntary discharge (commissioned and WO)
(47.13) Administrative separation—vacation appointment (commissioned and WO)
(47.14) Administrative Separation—Dropped from the rolls (commissioned and WO)
(47.15) Administrative separation—Release from extended active duty/voluntary and upon expiration of term of service (commissioned and WO)
(47.16) Administrative separation—release from extended active duty (commissioned and WO)
(47.17) Expiration of required service
(48.00) Outside Pressure
(48.01) Board actions
(48.02) Good of service discharges
(48.03) Civil conviction discharges

P

(49.00) Personal Problems
(49.01) Board actions
(49.02) Good of service discharges
(49.03) Civil conviction discharges
(49.04) Expeditious discharges
(50.00) Post Service Conduct
(50.01) Aggravating
(50.02) Board actions
(50.03) Civil conviction discharges
(50.04) Good of service discharges
(50.05) Expeditious discharges
(50.06) Mitigating
(51.00) Procedural/Legal Error
(51.01) Board actions
(51.02) Good of service discharges
(51.03) Expeditious/trainee discharges
(51.04) Civil conviction discharges
(52.00) Project 100,000
(53.00) Promises/Threats/Intimidation
(53.01) Chain of command
(53.02) Peers
(53.03) Recruiter
(53.04) Defense counsel

Q

(54.00) Qualitative Management Program

R

(55.00) Racial Discrimination
(56.00) Record of Service Overall
(56.01) Board actions
(56.02) Good of service discharges
(56.03) Civil conviction discharges
(56.04) Expeditious discharges
(57.00) Rehabilitation
(57.01) Not waived
(57.02) Failure
(58.00) Religious Discrimination
(59.00) Request for Discharge for the Good of the Service

S

(60.00) Search and Seizure
(61.00) Selective Reenlistment Program
(62.00) Stacking of Offenses
(62.01) Board actions
(62.02) Good of the service discharges

T

(63.00) Trainee Discharge Program
(63.01) Counseling
(63.02) Procedural errors
(64.00) TWSR

U

(65.00) Unfitness (see general misconduct)
(66.00) Unsuitability
(66.01) Alcohol abuse
(66.02) Apathy, defective attitude, and inability to expend effort constructively
(66.03) Financial irresponsibility
(66.04) Homosexual or other aberrant tendencies
(66.05) Character and behavior disorders (personality disorders)
(66.06) Inaptitude
(66.07) Personal abuse of drugs
(66.08) Personality disorder
(66.09) Unsanitary habits
(66.10) Unspecified

V

(67.00) Vietnam—Special Discharge Review Program
(67.11) Tour in Southeast Asia or Western Pacific
(67.12) Wounded in combat
(67.13) Decorated for valor/merit
(67.14) Previous Honorable Discharge
(67.15) Satisfactorily served 24 months prior to discharge
(67.16) Completed alternate service or was excused in accordance with Presidential Proclamation 4313
(67.21) Age, aptitude, length of service at time of discharge
(67.22) Education level
(67.23) Deprived background
(67.24) Personal distress
(67.25) Waiver to enlist
(67.26) Conscience
(67.27) Drugs of alcohol
(67.28) Good citizenship
(67.29) Other factors
(67.31) Discharged for act(s) of violence
(67.32) Discharged for act(s) of dishonor
(67.33) Discharged for desertion in or from combat theater
(67.34) Discharged for offense(s) subject to civilian criminal prosecution
(67.40) President Ford Memo 19 January 1977

W

(68.00)

X

(69.00)

Y

(70.00)

Z

(71.00)

NOTE: Numbers 72.00-99.00 have been reserved for future use, if required, by the DRB.

SECTION IB

Index numbers used to index discharge cases listed in Supplement 5 and all subsequent supplements.

(Numerical Codes A00.01-A99.99)

OUTLINE TO THE REVISED SUBJECT/CATEGORY LISTING

Propriety Considerations

Part A—*Common Elements to All Discharges* (Index Nos (A01.00-A01.32))
Part B—*Common Elements to Discharges Where SM Has Right to Board Hearing* (Index Nos (A02.00-A02.32))
Part C—*Reasons for Discharge and Specific Elements Pertaining to These Discharges* (Index Nos (A03.00-A84.00))
Part D—*Specifically Retroactive Policy Changes* (Index Nos (A85.00-A89.00))

Equity Considerations

Part E—*Policy Changes Not Specifically Retroactive* (Index Nos (A90.00-A91.06))
Part F—*Quality of Service* (Index Nos (A92.00-A92.32))
Part G—*Capability To Serve* (Index Nos (A93.00-A93.30))
Part H—*Other Equitable Considerations* (Index Nos (A94.00-A98.00))

Other Considerations

Part I—*Administrative Actions Indirectly Related to Discharge* (Index Nos (A99.00-A99.16))
Part J—*Special Programs* (Index Nos (A00.00-A00.58))

SECTION I

REVISED SUBJECT/CATEGORY LISTING (1978)

Propriety Considerations

Part A—Common Elements Throughout the Discharge Process

(A01.01/02) Separation action *not* properly Initiated

(A01.03/04) SM *not* properly notified of Separation Action
(A01.05/06) Improper physical Examination at Separation
(A01.07/08) Discharge Authority *not* proper
(A01.09/10) Characterization based in part on Prior Service
(A01.11/12) Characterization based in part on Pre-Service Record
(A01.13/14) Evidence in Record does *not* Support Reason for Discharge
(A01.15/16) SM *not* Separated within Reasonable Time after Approval
(A01.17/18) JAG (Legal) Review, when required, defective
(A01.19/20) SM's ratings/grades were *not* properly calculated or administered
(A01.21/22) Evidence Obtained in Violation of Article 31, UCMJ, (Self-incrimination) improperly considered
(A01.23/24) Evidence Obtained from Unlawful Search Improperly Considered
(A01.25/26) Hearsay Evidence Improperly Considered
(A01.27/28) Unsworn Testimony or Statements Improperly Considered
(A01.29/30) Exempt Evidence (Alcohol/Drug Rehabilitation Program) Improperly Considered
(A01.31/32) Other Evidence Improperly Considered, Including Defective Records of Disciplinary Offenses

Part B—Elements Common to Discharges Where SM Has Right to Board Hearing

(A02.01/02) Commander's Report improper
(A02.03/04) SM *not* properly notified of Rights to Request Board Hearing
(A02.05/06) SM *not* properly notified of Right to submit Statements
(A02.07/08) Improper Counsel for Consultation
(A02.09/10) Waiver of Board Hearing *not* proper
(A02.11/12) Improper Denial of Request for Board Hearing.
(A02.13/14) Improper Composition of Board
(A02.15/16) Improper Counsel for Representation
(A02.17/18) Ineffective Assistance of Counsel
(A02.19/20) Request for Witness improperly Denied
(A02.21/22) Command Intervention (influence) improper
(A02.23/24) Improper Denial of Request to Personally Appear
(A02.25/26) Recommendation of Board improper
(A02.27/28) Discharge Authority's approval improper in light of Board recommendation
(A02.29/30) Withdrawal of waiver not properly considered
(A02.31/32) Improper Vacation of Suspended Administrative Discharge

Part C—Reasons for Discharge and Specific Elements Pertaining to These Discharges

(A03.00) *Discharge for Expiration of Term of Service/Enlistment (ETS)*
(A03.01/2) SM did meet regulatory criteria for Honorable Discharge
(A03.03/4) Personal Decoration during Current Service *not* considered
(A03.05/6) Characterization based on Isolated Acts of Indiscipline.
(A03.07/8) Characterization based on Mental Status or other Medical Evaluation
(A03.09/10) Characterization improperly changed by Commanding Officer of Transfer Activity, and appropriate entries *not* made in file showing reason
(A04.00) *Discharge For CONVENIENCE OF GOVERNMENT (See Specific Categories A05.-A30. below)*
(A05.00) Reduction in Strength (Service Manpower)
(A06.00) Erroneous Induction or Enlistment
(A07.00) Early Separation Under Directed Programs
(A08.00) Discharge on Basis of Alien Status
(A09.00) Lack of Jurisdiction
(A10.00) Sole Surviving Son/Daughter or Family Member
(A11.00) Concealment of Arrest Record
(A12.00) Secretarial Authority
(A13.00) Discharge for Obesity
(A14.00) Discharge for Motion/Travel Sickness
(A15.00) Inability to Perform Duties Due to Parenthood
(A16.00) Discharge to Accept Commission
(A17.00) Discharge for Enlistment-Reenlistment
(A18.00) Physically Disqualified for Officer Candidate School
(A19.00) SM Erroneously Delivered Punitive Discharge Before Review Final
(A20.00) Discharge for Allergy to Clothing
(A21.00) SM Serving Constructive Enlistment with Defective Contract
(A22.00) Discharge for Pregnancy or Marriage
(A23.00) Discharge for Conscientious Objection
(A24.00) Marginal Performer Discharge (EDP/QMP): Non-Trainee
(A24.01/02) SM *not* properly Counseled by Command
(A24.03/04) SM met required Standards of Performance after award of MOS
(A24.05/06) SM *not* in Unit from which separated required Period of Time
(A24.07/08) SM did *not* consent to Discharge
(A24.09/10) Improper Counsel for Consultation (when required)
(A24.11/12) Statement submitted *not* considered
(A24.13/14) Not separated within specified Period of Time in Service
(A25.00) Marginal Performer Discharge (TDP): Trainee
(A25.01/02) SM *not* discharged within required Period of Time after Enlistment
(A25.03/04) Trainee Discharge *not* properly Characterized as Honorable
(A25.05/06) Trainee *not* properly Counseled by Command before Discharge
(A25.07/08) Statement/Rebuttal submitted *not* considered
(A26.00) Substandard Performance/Behavior (Petty Officer)
(A27.00) Substandard Performance/Behavior (Non-Petty Officer)
(A28.00) Condition/Medical Disability which interferes with Performance of duties, *not* a Physical Disability
(A29.00)
(A30.00)
(A31.00) Discharge for Physical Disability
(A32.00) Discharge (Characterization) as a Result of DRB Action
(A33.00) Discharge (Characterization) as a Result of other Official Board Action (e.g. Clemency & Parole, Correction of Military Records)
(A34.00) Discharge for Minority
(A35.00) Discharge for Dependency or Hardship
(A36.00) Discharge for Security Reasons
(A37.00)
(A38.00)
(A39.00)
(A40.00) *Discharge for UNSUITABILITY (See Specific Categories A41.-A48. below)*
(A40.01/02) Counseling Requirements *not* met or waived
(A40.03/04) Rehabilitative Requirements *not* met or waived
(A40.05/06) Mental status Evaluation (when required) not conducted
(A40.07/08) Requested Psychiatric or Psychological Report *not* conducted
(A41.00) Inaptitude
(A42.00) Personality Disorder (Old Character & Behavior Disorder)
(A42.01/02) Neuropsychiatric (NP) Evaluation *not* proper/present
(A43.00) Apathy
(A44.00) Enuresis
(A45.00) Alcohol Abuse
(A46.00) Homosexual Tendencies
(A46.01/02) No verified record of Homosexual Acts prior to or during Service
(A46.03/04) Did *not* Exhibit, profess or Admit to Homosexual Tendencies
(A46.05/06) Psychiatric/Psychological Evaluation (when required) *not* performed
(A47.00) Financial Irresponsibility
(A48.00) Unsanitary Habits
(A49.00)
(A50.00) *Discharge for UNFITNESS (See Specific Categories A51.-A58. below)*
(A50.01/02) Counseling Requirements *not* met or waived
(A50.03/04) Rehabilitative Requirements *not* met or waived
(A50.05/06) Mental Status Evaluation (when required) *not* conducted
(A50.07/08) Requested Psychiatric or Psychological Report *not* conducted
(A51.00) Frequent Involvement with Civil or Military Authorities
(A52.00) Sexual Perversion
(A53.00) Drug Use, Sale, or Possession
(A54.00) Established Pattern of Shirking
(A55.00) Established Pattern of Failure to Pay Debts
(A56.00) Established Pattern of Failure to Support Dependents
(A57.00) Homosexual Acts
(A57.01/02) No confirmed proposal, solicitation, attempt or performance of Homosexual Acts
(A57.03/04) Isolated Incident stemmed from Immaturity, Curiosity or Intoxication
(A57.05/06) Psychiatric/Psychological Evaluation (when required) not conducted
(A58.00) Unsanitary Habits
(A59.00)
(A60.00) *Discharge for MISCONDUCT (See Specific Categories A61.-A66. below)*
(A61.00) Conviction by Civil Authorities (Foreign or Domestic)
(A61.01/02) No Conviction which met UCMJ Punishment Standards

(A61.03/04) Discharged before Appeal Action completed
(A61.05/06) Discharge *not* in accordance with Policy for Non-U.S. Convictions
(A61.07/08) Mental Status Evaluation (when required) *not* conducted
(A61.09/10) Improper Discharge after Construction Waiver
(A62.00) Fraudulent Enlistment
(A62.01/02) Fraudulent Entry *not* substantiated
(A62.03/04) Mental Status Evaluation (when required) *not* conducted
(A62.05/06) Recruiter Misconduct
(A63.00) Prolonged Unauthorized Absence (Extended AWOL/Desertion)
(A63.01/02) Unauthorized Absence (AWOL/Desertion) *not* continuous 1 year of more
(A63.03/04) Mental Status Evaluation (when required) *not* conducted
(A64.00) Frequent Involvement with Civil or Military Authorities (See Procedural Elements under UNFITNESS A50.01-08)
(A65.00) Homosexual Acts (See Procedural Elements under UNFITNESS A50.01-08; and A57.01-06)
(A66.00) Drug Abuse (See Procedural Elements under UNFITNESS A50.01-08)
(A67.00)
(A68.00) Bad Conduct Discharge (BCD)
(A68.01/02) BCD not affirmed on Appellate Reivew
(A69.00) Discharge for Alcohol/Drug Rehabilitation Failure
(A69.01/02) SM was *not* Rehabilitative Failure
(A69.03/04) SM was discharged prior to Minimal Treatment
(A69.05/06) Discharge *not* properly characterized as Honorable
(A69.07/08) Improper Counsel for Consultation
(A70.00) *Request for Discharge for GOOD OF SERVICE (GOS) for Conduct which rendered SM triable by CM (See Specific Categories A71.-A77. below)*
(A70.01/02) Charges *not* preferred
(A70.03/04) Offense charged, *not* punishable by a "Punitive Discharge"
(A70.05/06) SM did *not* request For GOS Discharge
(A70.07/08) SM not properly counseled by Counsel for Consultation
(A70.09/10) Request for Withdrawal of GOS Discharge *not* processed/considered
(A70.11/12) SM Could *not* Knowingly request GOS Discharge at the time
(A70.13/14) No UCMJ Jurisdiction over the Person
(A70.15/16) No UCMJ Jurisdiction over the Offense
(A71.00) Conduct Triable by CM: AWOL
(A72.00) Conduct Triable by CM: Larceny
(A73.00) Conduct Triable by CM: Assault
(A74.00) Conduct Triable by CM: Drugs
(A75.00) Conduct Triable by CM: DOLO
(A76.00) Conduct Triable by CM: Disrespect
(A77.00) Conduct Triable by CM: Other
(A78.00) Discharge for Inaptitude or Unsuitability (Discharges prior to April 1959)
(A79.00) Discharge for Undesirable Habits or Traits (Discharges prior to April 1959)
(A80.00) *Officer Resignation (Involuntary)*
(A80.01/02) Officer did *not* tender Resignation
(A80.03/04) No Elimination Action initiated, when required
(A80.05/06) Request *not* forward to Military Department by GCM Authorities
(A81.00) Officer Elimination
(A82.00) Officer Expiration of Term of Service
(A83.00) Other (Not Specifically Covered)
(A84.00)

Part D—Policy Changes Made Specifically Retroactive

(A85.00) *Drug Use/Possession (LAIRD Memorandum)*
(A85.01/02) Discharge based solely on Drug related Conduct
(A85.03/04) Discharge based solely on Drug Use/Possession
(A85.05/06) Discharge based on Sale, but mere Conduit Theory applies
(A85.07/08) Service Record Otherwise Satisfactory
(A86.00) *Personality Disorder (Old Character and Behavior Disorder)*
(A86.01/02) No NP Evaluation
(A86.03/04) No NP Evaluation diagnosing a Personality Discharge
(A86.05/06) NP Evaluation *not* conducted by Proper Medical Authority
(A86.07/08) No Clear and Demonstrable Reason for a Less Than Honorable Discharge
(A87.00)
(A88.00)
(A89.00)

EQUITY CONSIDERATIONS (CONTENTIONS, ISSUES OR CONSIDERATIONS)

Part E—Policy Changes Not Specifically Retroactive

(A90.00) *Procedural*
(A90.01/02) Formal Notification of Separation Action
(A90.03/04) Opportunity to Respond (e.g. Submit Statements)
(A90.05/06) Opportunity for a Board Hearing
(A90.07/08) Right to Lawyer for Consultation
(A90.09/10) Right to Lawyer for Representation
(A90.11/12) Opportunity to Examine/Cross-Examine Witness(es)
(A90.13/14) Other
(A90.00) *Policy*
(A91.01/02) Character of Discharge Received by SM is not now Authorized or Required when a SM is Discharged for the Same Reason or Conduct
(A91.03/04) Conduct for which SM was Discharged No Longer Provides an Authorized Basis for Separation
(A91.05/06) Other

Part F—(A92.00) Quality of Service

(A92.01/02) Conduct and Efficiency Ratings
(A92.03/04) Awards and Decorations
(A92.05/06) Letters of Commendation
(A92.07/08) Combat Service
(A92.09/10) Wounds received in Action
(A92.11/12) Record of Promotions
(A92.13/14) Rank/Responsibility Level at which SM served
(A92.15/16) Other Acts of Merit
(A92.17/18) Date and Period of Service which is Subject of DRB Review
(A92.19/20) Prior (Honorable) Military Service
(A92.21/22) Post Service Conduct (Good Citizenship)
(A92.23/24) Record of Non-Judicial Punishment (indicates isolated/minor offenses)
(A92.25/26) Record of Courts-Martial Convictions (indicates isolated/minor offenses
(A92.27/28) Record of Conviction(s) by Civil Authorities while in Service and part of Service Record (indicates isolated/minor offenses)
(A92.29/30) Record of Unauthorized Absences (indicates isolated/minor offenses)
(A92.31/32) Other

Part G—(A93.00) Capability To Serve (Factors Which Could Impair Ability To Serve)

(A93.01/02) Age and Maturity
(A93.03/04) Aptitude (Scores) and Education
(A93.05/06) Deprived Background
(A93.07/08) Marital/Family Problems
(A93.09/10) Personal Problems
(A93.11/12) Financial Problems
(A93.13/14) Discrimination: Religious
(A93.15/16) Discrimination: Racial
(A93.17/18) Drugs
(A93.19/20) Alcohol
(A93.21/22) Medical/Physical
(A93.23/24) Psychiatric/Psychological Problems (may include Situational Maladjustment)
(A93.25/26) Matters of Conscience
(A93.27/28) Waiver of Moral standards for Enlistment
(A93.29/30) Other

Part H—(A94.00) Other Equitable Considerations

(A94.01/02) Severity of Punishment (Civil or Military): Current Standards
(A94.03/04) Inaptitude ("Would but Couldn't")
(A94.05/06) Too Harsh: At Issuance, Discharge inconsistent with Standards of Discipline
(A94.07/08) Discharge in lieu of Court Martial: Although a Punitive Discharge was authorized, an Other Than Honorable Discharge was *too harsh* under the curcumstances
(A94.09/10) Multiple Minor Offenses (Multiplicity)
(A94.11/12) *Arbitrary and Capricious Command Actions* that Constitute a clear abuse of Authority, and which, although not amounting to Prejudicial or Legal Error, may have contributed to the Decision to Discharge or the Characterization of Service
(A94.13/14) Vietnam War Syndrome
(A94.15/16) Received Clemency Discharge
(A94.17/18) Completed Alternate Service or excused therefrom
(A94.19/20) Failed to complete Alternate Service but Reasonable Explanation
(A94.21/22) Homosexual Interest Self-Admitted
(A94.23/24) Homosexual Act(s) committed with express/implied Consent of an Adult(s)
(A94.25/26) Homosexual Act(s) off Military Installation
(A94.27/28) Homosexual Act(s) resulted from Duress
(A94.29/30) Drugs: Simple Possession (Small Amount)
(A94.31/32) Drugs: Use off Duty
(A94.33/34) Drugs: Use off Military Reservation
(A94.35/36) Drugs: No use after Exemption Granted
(A94.37/38) Drugs: No Sale-Trafficking

(A94.39/40) Other
(A95.00)
(A96.00)
(A97.00)
(A98.00)

OTHER CONSIDERATIONS

Part I (A99.00) *Administrative Actions Indirectly Related to Discharge Process*

(A99.01.02) Application for Conscientious Objector (C.O.) Status
(A99.03/04) Application for Hardship Discharge
(A99.05/06) Improper Enlistment
(A99.07/08) Improper Induction
(A99.09/10) Enlistment Option not Satisfied or Waived
(A99.11/12) Application for Compassionate Reassignment
(A99.13/14) Evaluation/Consideration for Physical Disability Discharge
(A99.15/16) Other

Part J Special Programs

(A00.00) *Presidential Proclamation (PP 4313) dtd 16 September 1974*
(A00.10) *Presidential Memorandum dtd 9 January 1977*
(A00.11/12) SM who applied for Clemency UP, PP 4313, and was wounded in Combat (Vietnam)
(A00.13/14) SM who applied for Clemency UP, PP 4313, and was Decorated for Valor (Vietnam)
(A00.20) *Special Discharge Review Program (SDRP)*
(A00.21/22) Tour in Southeast Asia or Western Pacific
(A00.23/24) Wounded in Combat
(A00.25/26) Decorated for Valor/Merit
(A00.27/28) Previous Honorable Discharge
(A00.29/30) Satisfactorily served 24 Months prior to Discharge
(A00.31/32) Completed Alternate Service or was excused in accordance with Presidential Proclamation 4313
(A00.33/34) Age, Aptitude, Length Of Service at time of Discharge
(A00.35/36) Education Level
(A00.37/38) Deprived Background
(A00.39/40) Personal Distress
(A00.41/42) Waiver to Enlist
(A00.43/44) Conscience
(A00.45/46) Drugs or Alcohol
(A00.47/48) Good Citizenship
(A00.49/50) Other factors
(A00.51/52) Discharge for Act(s) of Violence
(A00.53/54) Discharge for Act(s) of Dishonor
(A00.55/56) Discharge for Desertion in or from Combat Theater
(A00.57/58) Discharge for Offense(s) subject to Civilian Criminal Prosecution
(A00.59/60) Determination of Program Eligibility

SECTION II

Index numbers used to index nondischarge cases listed in Basic Index and all supplements.

(Numerical Codes 100.00-199-99)

CORRECTION BOARDS INDEX—NONDISCHARGE CASES

A

100.00 Administrative Matters
100.01 Change of Name/Sex
100.02 Change of Date/Place of Birth
100.03 Change of Reenlistmen Code
100.04 Presumption of Death
100.05 Change of MOS/Designation
101.00 Archive Cases
101.01 Civil War
101.02 Desertion
101.03 Spanish-American War
101.04 Establish Service
101.05 Revolutionary War
102.00 Appointments
102.01 Effective Date
102.02 Grade
102.03 Component
102.04 Reason for Disqualification
102.05 Inter-Service Transfer
102.06 Termination
102.07 Date of Rank
102.08 Constructive Service for Officers

B

103.00

C

104.00 Cadets USMA/USNA/USAFA
104.01 Restoration of Status
104.02 Graduation/Appointments
105.00 Courts-Martial
105.01 Sentence (Including Dismissal/Discharge)
105.02 Mental Incompetency/Capacity
105.03 Lack of Opportunity for Restoration
105.04 Conscientious Objection
105.05 Impeachment of Testimony
105.06 Use or Possession of Drugs
106.00 Clemency Discharge/Pardon

D

107.00 Decorations and Awards
108.00 Disability Separation/Retirement
108.01 Diagnosis
108.02 Percentage of Disability
108.03 Line of Duty Determination
108.04 Permanent
108.05 Temporary
108.06 Termination
108.07 Combat Incurred
108.08 Instrumentality of War
108.09 Grade
108.10 Effective Date
109.00 Discharge From Draft (WWI)
110.00 Discharge/Separation Documents
110.01 Change in Date
110.02 Reason and Authority

E

111.00 Efficiency/Effectiveness Reports
111.01 Officers and Warrant Officers
111.02 Enlisted Personnel
111.03 Bias/Prejudice—Rater/Indorser
111.04 Administrative/SRB Review
112.00 Enlistment/Reenlistment Contract
112.01 Home of Record
112.02 Grade/Date of Rank
112.03 Term of Enlistment
112.04 Broken Enlistment Commitment
112.05 Date of Enlistment
112.06 Void
112.07 Constructive Service
112.08 Continuous Service
112.09 Base Pay Entry Date
113.00 Establishment of Service
113.01 Reserve Components
113.02 SATC
113.03 Fulough
113.04 Civilian Conservation Corps
113.05 WWI Railway Battalions

F

114.00 Fittness Reports (Navy/Marine Corps)
114.01 Removal of Officer Reports
114.02 Revised Reports
114.03 Enlisted Performance Evaluation—Removal/Modify
115.00 Flying Status
115.01 Effective Date
115.02 Removal From
115.03 Qualifying Service
115.04 Areonautical Ratings

G

116.00

H

117.00

I

118.00
119.00 Jurisdiction of Board
119.01 Philippine Guerrilla Cases

K

120.00

L

121.00 Leave Adjustments
121.01 Type of Leave
121.02 Lump Sum Leave Settlement
122.00 Line of Duty Status
122.01 Injury
122.02 Disease/EPTS
122.03 Mental Responsibility
123.00 Lost Time
123.01 Absence Without Leave/Desertion
123.02 Mental Incompetency
123.03 Injury or Illness on Leave
123.04 Error or Technicality
123.05 Port Call
123.06 Confinement
123.07 Removal

M

124.00 Medical Records
124.01 Change in Diagnosis
124.02 Dates of Treatment
124.03 Establishment of Record of Treatment

N

125.00 National Guard
125.01 Status
125.02 Federal Recognition
126.00 Nonjudicial Punishment
126.01 Improperly Filed
126.02 Excessive Punishment
126.03 Removal of Reprimands
126.04 Expunge Record

O

127.00

P

128.00 Pay and Allowances
128.01 Family Separation Allowance
128.02 Travel Pay
128.03 Dislocation Allowance
128.04 Flying/Incentive Pay (including Submarine, Flight Deck, Experimental Stress duty, etc.)
128.05 Enlistment/Reenlistment Bonuses
128.06 Variable Incentive Pay/Continual/Medical/Dental, etc.
128.07 Proficiency Pay
128.08 Severance Pay
128.09 Readjustment pay
128.10 Remission/Cancellation of Indebtedness
128.11 Mustering-Out Pay
128.12 BAQ/Subsistence Allowance
128.13 Uniform/Clothing Allowance
128.14 Other types Pay
129.00 Pay Grade

129.01 Service Credit
129.02 Revocation of Orders
129.03 Authority
129.04 Highest Grade Satisfactorily Held for Pay Purposes
145.00 Physical Disability
145.01 Incurred while on unauthorized absence
145.02 Existed prior to entry/aggravated
145.03 Existed prior to entry/not aggravated
145.04 Incurred while not in receipt of basic pay
145.05 Disciplinary action pending; handling of
145.06 Administrative discharge proceedings pending; handling of
130.00 Prisoner of War
131.00 Promotion
131.01 Selection Boards
131.02 Removal From Recommended List
131.03 Failure to be Considered
131.04 Effective Date
131.05 Date of Rank
131.06 Prisoner of War
131.07 Casualty Status
131.08 Terminal Leave Promotion
131.09 Advancement in Grade
131.10 Passover/Failure of Selection—Removal

Q

132.00

R

133.00 Reduction in Grade/Rank
133.01 Misconduct
133.02 Inefficiency
133.03 Void/Remove From Record
133.04 Technical Defect
134.00 Removal/Deletion of Records
134.01 Letters of Reprimand/Admonition
134.02 Derogatory Material
134.03 Remark of Desertion
135.00 Reserve Service Credit
135.01 Transfer Between Components
135.02 Retirement Point Credits
135.03 Change of Status
135.04 War/National Emergency Service
135.05 Date of Retirement

S

136.00 Retirement/Separation (Other than disability)
136.01 Effective Date
137.00 Survivors Benefit Plan and RSFPP
137.01 Eligibility
137.02 Effective Date of Participation
137.03 Termination of Participation
137.04 Change in Election

T

138.00

U

139.00

V

140.00

W

141.00

X

142.00

Y

143.00

Z

144.00

[FR Doc. 78-28960 Filed 10-12-78; 8:45 am]

[3128-01-M]

DEPARTMENT OF ENERGY

Bonneville Power Administration

DRAFT ENVIRONMENTAL STATEMENT

Public Meetings

The Bonneville Power Administration (BPA) hereby gives notice of two public meetings to be held to discuss BPA's fiscal year 1980 draft program environmental statement. The purpose of the meeting is twofold: To present to the public BPA's proposed fiscal year 1980 program (including major new proposed facilities included as part of this program), and to solicit comments from the public with respect to the environmental impact of BPA's proposed program. This fiscal year 1980 proposed program EIS also contains a draft facility planning supplement discussing proposed upgrading of electric service in the Salem-Albany area of northwestern Oregon, for which comments are also being solicited.

The meetings will be held as follows: November 14, 1978, at 7 to 10 p.m. in the Brush College Elementary School, 2623 Doaks Ferry Road NW., Salem, Oreg.; and November 16, 1978, at 7 to 10 p.m. in the Albany Main Public Library, 1390 Southeast Waverly Drive, Albany, Oreg.

For those who cannot attend the meetings, written comments will be accepted until the close of comment date, November 24, 1978. Copies of the environmental statement as well as additional or clarifying information may be obtained by writing or calling the Environmental Manager's Office, Bonneville Power Administration, P.O. Box 3621, Portland, Oreg. 97208, 503-234-3361, extension 5137.

Dated at Washington, D.C., this 6th day of October 1978.

WILLIAM P. DAVIS,
Deputy Director of Administration.

[FR Doc. 78-28846 Filed 10-12-78; 8:45 am]

[3128-01-M]

Economic Regulatory Administration

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Availability of Draft Environmental Impact Statement and Public Hearing

AGENCY: Department of Energy.

ACTION: Notice of Availability of Draft Environmental Impact Statement and Public Hearing.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act (NEPA), 42 U.S.C. 4332, et seq., and 10 CFR 208.15(a) and 305.9, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces the availability of a draft environmental impact statement prepared concerning the proposed issuance of a Notice of Effectiveness (NOE) to the following powerplant prohibition order recipient:

Docket No.	Owner	Generating station	Powerplant No.	Location
OFU-075, OFU-076	New England Electric System.	Brayton Point	1 and 2	Somerset, Mass.
OFU-077	New England Power Co.	do	3	Do.

Pursuant to a prohibition order issued to these powerplants on June 30, 1977, the DOE has performed an analysis and review of the environmental impact of the proposed issuance of an NOE to these powerplants and has determined that making the prohibition order effective will have a significant impact on the quality of the human environment, within the meaning of NEPA. DOE has prepared a draft environmental impact statement detailing significant impacts and now requests public comments. As a part of the public comment process, DOE will also receive oral statements at a public hearing. After all testimony and comments have been received and analyzed, a final environmental impact statement will be prepared and issued.

DATES: Comments by December 1, 1978, 4:30 p.m.; Requests to speak by November 8, 1978, 4:30 p.m.; Hearing Date: November 21, 1978, 2 to 5 p.m., 7 to 9 p.m., November 22, 1978, 9:30 a.m.

ADDRESSES: Written comments to Office of Public Hearing Management, Department of Energy, Box VU, Room 2313, 2000 M Street NW., Washington, D.C. 20461; requests to speak to DOE, Region I, 150 Causeway Street, Boston, Mass. 02114, telephone

number 617-223-5257, Attention: Kathy Healy.

HEARING LOCATION: Somerset Public Library, Meeting Room, 1464 County Street, Somerset Mass. 02726.

FOR FURTHER INFORMATION CONTACT:

Steven A. Frank, Division of Coal Utilization, Department of Energy, Room 7202, 2000 M Street NW., Washington, D.C. 20461, 202-254-6246.

J. Thomas Wolfe, Office of General Counsel, Department of Energy, Room; 8217, 20 Massachusetts Avenue NW., Washington, D.C. 20545, 202-376-4262.

Robert Stern, Division of NEPA Affairs/EV., Department of Energy, Room 7121 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, 202-566-9760.

SUPPLEMENTARY INFORMATION:

I. Background
II. Comment procedures
A. Written Comments
B. Public Hearing

I. Background

The prohibition order issued to the above-named powerplants, if made effective, would prohibit the use of natural gas or petroleum products as their primary energy source.

This order was issued on June 30, 1977 (42 FR 36292, July 14, 1977), under authority of section 29(a) of the Energy Supply and Environmental Coordination Act of 1974 (ESECA) 15 U.S.C. 791 et seq., as amended by Pub. L. 94-163 and Pub. L. 95-70. The prohibition order provided, however, that in accordance with the requirements of 10 CFR 303.10(b), and 305.7, the order would not become effective until DOE had considered the environmental impact of making the order effective pursuant to 10 CFR 208.15(c) and 305.9, and until DOE had served the affected company with an NOE. The ERA, DOE had analyzed the potential environmental impacts that would result from the proposed NOE issuance to these powerplants. DOE has determined that the proposed issuance of an NOE for the prohibition order issued to the above-named powerplants will constitute a "major Federal action significantly affecting the quality of the human environment." Therefore, pursuant to 10 CFR 208.15(a) and 305.9, DOE has concluded that an environmental impact statement is required. Single copies of the draft environmental impact statement are available upon request from Mr. Steven A. Frank and Ms. Kathy Healy at the addresses indicated above. Copies of the draft statement also are available for public review in the DOE Freedom of Information Reading Room, Room 2107, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

II. Comment Procedures

A. Written Comments

Interested parties are invited to submit written comments with respect to this draft environmental impact statement to the Office of Public Hearing Management, Box VU, Department of Energy, Room 2313, 2000 M Street NW., Washington, D.C. 20461. All comments should be received by DOE no later than December 1, 1978, in order to insure consideration.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted (one copy only) in accordance with the procedures set forth at 10 CFR 205.9(f). Any material not filed in accordance with such section will be considered to be nonconfidential. DOE reserves the right to determine the confidential status of the information or data and to treat it according to that determination.

B. Public Hearing

The time and place for the hearing are indicated in the dates section of this notice. If you have an interest in this matter or represent a group or class of persons that has an interest in the matter, you may write to request an opportunity to speak. If selected to speak you will be notified by DOE, Region I, before 4:30 p.m., November 14, 1978, and must bring 7 copies (for the hearing panel's use) of your statement to the hearing site on the day of the hearing.

DOE reserves the right to select the persons to be heard at this hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An ERA official will preside at the hearing. This will not be a judicial or evidentiary-type hearing. Questions may be asked only by those conducting the hearing, and there will be no cross-examination. Each speaker will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statement will follow the conclusion of each initial statement and will be subject to time limitations.

You may submit questions to be asked of any person making a statement at the hearing to DOE, Region I, at the address indicated in the address section of this notice, before 4:30 p.m., November 20, 1978. If you wish to ask a question at the hearing you may submit the question, in writing, to the presiding officer. The ERA, or, if the question is submitted at the hearing, the presiding officer will determine whether the question is relevant and whether time limitations permit it to be presented for answer.

The presiding officer will announce any further procedural rules needed for the proper conduct of the hearing.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by the ERA and made available for inspection at the Freedom of Information Reading Room, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. You may buy a copy of the transcript from the reporter.

After all testimony and comments have been received and analyzed, a final environmental impact statement will be prepared and issued.

Issued in Washington, D.C., October 10, 1978.

BARTON R. HOUSE,
Assistant Administrator, Fuels Regulation, Economic Regulatory Administration.

[FR Doc. 78-28903 Filed 10-12-78; 8:45 am]

[3128-01-M]

HANFORD GENERATING PROJECT

Amendment to Order Confirming and Approving Special Contract Rates for Sale of Thermal Power

On September 26, 1978, the Assistant Administrator for Utility Systems, Economic Regulatory Administration (ERA), upon request of the Assistant Secretary for Resource Applications (Assistant Secretary), issued an order confirming and approving special contract rates for the sale of thermal power and energy from the Hanford generating project, ERA Docket No. BPA 78-3. The order was published in the FEDERAL REGISTER on October 3, 1978 (43 FR 45630-1). The rates that were confirmed and approved in ERA's order are contained in contracts between the Bonneville Power Adminsitration and investor-owned utilities (contract No. 14-03-79120) and between the Bonneville Power administration and direct-service industries (contract No. 14-03-79121). The order failed to specify that ERA's confirmation and approval of the rates contained in the direct-service industries contract applies to sales authorized by such contract of withdrawn Hanford project power to third parties as well as to sales of power to the direct-service industries. Therefore, the Acting Assistant Administrator for Utility

Systems, Economic Regulatory Administration, hereby amends the order, issued September 26, 1978, confirming and approving the special contract rates to redesignate paragraph No. 3 of the Assistant Administrator's order on page 5 (43 FR 45631) as paragraph No. 4 and to insert the following as new paragraph No. 3:

3. The proposed rates and charges contained in contract No. 14-03-79121 are hereby confirmed and approved for a period ending June 30, 1983, for sales to entities other than the direct-service industries of that portion of Hanford project generation withdrawn by the Bonneville Power Administration pursuant to the provisions of such contract.

Issued in Washington, D.C., this 5th day of October 1978.

JERRY L. PFEFFER,
Acting Assistant Administrator for Utility Systems, Economic Regulatory Administration, Department of Energy.

[FR Doc. 78-28899 Filed 10-12-78; 8:45 am]

[6740-02-M]

Federal Energy Regulatory Commission

[Docket No. RP76-10 (PGA78-3)]

ARKANSAS LOUISIANA GAS CO.

Filing of Revised Tariff Sheets Reflecting Purchased Gas Cost Adjustment

OCTOBER 5, 1978.

Take notice that on September 29, 1978, Arkansas Louisiana Gas Co. (Arkla) tendered for filing 16th Revised Sheet No. 185 to its FERC Gas Tariff Original Volume No. 3, Rate Schedule No. X-26, to become effective November 1, 1978.

Arkla states that the purpose of 16th Revised Sheet No. 185 is to track producer and pipeline supplier price changes as of November 1, 1978, and to recover the accumulated deferred purchased gas costs as of July 31, 1978, through unit rate adjustments computed pursuant to provisions of Arkla's purchased gas cost adjustment clause contained in its FERC Rate Schedule No. X-26.

Arkla also states that copies of the revised tariff sheet and supporting data were mailed to Arkla's jurisdictional customer and other interested parties affected by this tariff change.

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 October 19, 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. 78-28975 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Docket Nos. CP78-266, CP78-267]

BEAR CREEK STORAGE CO.

Technical Conference

OCTOBER 4, 1978.

In the matter of Bear Creek Storage Co., Southern Natural Gas Co., Tennessee Gas Pipeline Co., Southern Natural Gas Co., Tennessee Gas Pipeline Co. Take notice that a 1 p.m. on Tuesday, October 10, 1978, staff will meet with representatives of the above-captioned companies for the purposes of obtaining clarification of certain data already submitted regarding the calculation of depreciation allowance and other matters of accounting and finance.

The conference will be held in Room 3200 of the Commission's office at 941 North Capitol Street NE., and all parties may at their option attend.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-28976 Filed 10-13-78; 8:45 am]

[6740-02-M]

[Docket No. RP73-65 (PGA No. 78-4) (AP No. 78-1)]

COLUMBIA GAS TRANSMISSION CORP.

Proposed Changes in FERC Gas Tariff

OCTOBER 4, 1978.

Take notice that Columbia Gas Transmission Corp. (Columbia) on September 29, 1978, tendered for filing proposed changes in its FERC Gas Tariff, Original Volume No. 1. Columbia states that this filing amends its filing of September 12, 1978, and proposes an effective date of September 2, 1978. Columbia states that the proposed changes are the result of the reduced rates of Texas Eastern Transmission Corp. at docket No. RP75-73, filed September 22, 1978, to become effective September 1, 1978. As a result of this revision, Columbia's revised rates herein proposed to become effective September 2, 1978, reflect a purchased gas cost adjustment which is $201,774 less than that filed by Columbia on September 12, 1978.

Copies of the filing were served upon the company's jurisdictional customers 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, Union Center Plaza Building, 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 October 20, 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. 78-28977 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Docket No. RP78-95]

COLUMBIA GAS TRANSMISSION CORP.

Proposed Changes in FERC Gas Tariff

OCTOBER 4, 1978.

Take notice that Columbia Gas Transmission Corp. (Columbia) on September 29, 1978, tendered for filing the following revised tariff sheet to its FERC Gas Tariff, Original Volume No. 1, to become effective November 1, 1978: Forty-seventh Revised Sheet No. 16.

Columbia states the Forty-seventh Revised Sheet No. 16 is necessary in order to comply with Commission order issued January 20, 1975, at docket No. RP73-86 which provides for phased removal of its multiple zone system. In compliance with the above-mentioned order the rates contained in this filing reflect a further one-sixth movement to be effective November 1, 1978, toward a system-wide rate structure.

Copies of this filing were served upon the company's jurisdictional customers, interested State commissions, and to each of the parties set forth on the official service list in this proceeding.

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, Union Center Plaza Building, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commis-

sion's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 23, 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. 78-28978 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Docket Nos. RP77-7 and RP77-140]

CONSOLIDATED GAS SUPPLY CORP.

Settlement Conference

OCTOBER 4, 1978.

Take notice that an informal settlement conference in the subject proceedings will be convened on October 12, 1978, at 11 a.m. in a conference room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

Customers and other interested persons will be permitted to attend, but if such persons have not previously been permitted to intervene by order of the Commission, attendance at the conference will not be deemed to authorize intervention as a party in the proceeding.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-28979 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Docket Nos. CP77-216 et al.]

DISTRIGAS OF MASSACHUSETTS CORP.

Informal Conference

OCTOBER 4, 1978.

Take notice that on October 23, 1978, at 10 a.m., an informal conference of all interested persons will be convened concerning the above-captioned matter. The conference will be held at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, Room 8402.

Customers and other interested persons will be permitted to attend, but if such persons have not previously been permitted to intervene by order of the Commission, attendance will not be deemed to authorize intervention.

All parties will be expected to appear fully prepared to discuss the use of flash-gas incinerators as directed in the Commission's letter order of September 8, 1978, page 2, condition 2.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-28980 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Docket Nos. ER78-417 and EL78-22]

KENTUCKY UTILITIES CO.

Order Accepting for Filing and Suspending Supplemental Service Agreement and Directing Further Compliance

SEPTEMBER 29, 1978.

On July 6, 1978, Kentucky Utilities Co. (KU) tendered for filing in docket No. ER78-417, a proposed rate increase applicable to Jackson Purchase Electric Cooperative Corp. (Jackson Purchase) and other of KU's wholesale for resale customers.[1] The revised rate schedule, identified by KU as rate schedule WPS-78, was intended to govern service to Jackson Purchase at 19 existing delivery points.

By order issued on August 4, 1978, in docket Nos. ER78-417 and EL78-22, the Commission, inter alia, accepted KU's submittal for filing, denied certain motions, granted interventions, suspended the effectiveness of the proposed WPS-78 rate filing, and instituted hearing procedures. In addition, for reasons that were fully developed in the August 4 order, we dismissed an application for an order directing KU to permit an additional physical connection of facilities which was filed on May 12, 1978, by Jackson Purchase and Big Rivers Electric Corp. (Big Rivers), in docket No. EL78-22, pursuant to section 202(b) of the Federal Power Act.

Jackson Purchase and Big Rivers sought the interconnection with KU's facilities so that Jackson Purchase could receive a portion of its power requirements from KU at a new twentieth delivery point (Reidland Substation). Based upon representations made by KU in answer to the section 202(b) application, we determined that it would prove counterproductive to initiate independent section 202(b) proceedings. Instead, the August 4 order directed KU to supplement its WPS-78 rate filing, on or before September 6, 1978, by submitting an appropriate service agreement applicable to the proposed Reidland Substation delivery point.[2] We further directed KU to stand ready to commence service at the Reidland Substation as of the effective date designated for the additional service agreement, in accordance with the rates, terms, and conditions of the WPS-78 filing, subject to such refunds as may be required in docket No. ER78-417.

On September 1, 1978, in response to those directives, KU tendered for filing an unexecuted service agreement for the Reidland delivery point,[3] together with the WPS-78 rate schedule and the pertinent rules, regulations, terms, and conditions. KU's submittal is, in all material respects, identical to its prior filing in docket No. ER78-417 for Jackson Purchase's existing delivery points.

Subsequently, on September 6, 1978, KU filed a response to the Commission's order of August 4, 1978.[4] This response initially relates KU's unsuccessful efforts to secure an executed copy of the subject service agreement from Jackson Purchase. According to KU, Jackson Purchase's refusal to execute the offered service agreement has precluded KU from complying with the Commission's requirement that KU supplement its earlier filing by submitting such a service agreement. KU's observation is somewhat curious in view of the fact that its September 1, 1978 submittal, as indicated above, purported to be in compliance with the Commisson's August 4, 1978 order.

With regard to the second requirement set forth in our prior order, KU states that it does currently stand ready to initiate service at the Reidland Substation in accordance with its earlier representations. However, KU asserts that its consent to the proposed new delivery point has been and continues to be limited by the prerequisite that Jackson Purchase first execute a suitable contract prescribing the applicable rates, terms, and conditions of service. The substance of KU's response is summarized in its concluding

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[1] Old Dominion Power Co., Berea College, city of Nicholasville, Ky. (No. 3 substation), and city of Paris, Ky.

[2] KU's filing in docket No. ER78-417 included nineteen unexecuted service agreements and rate WPS-78 to encompass Jackson Purchase's existing delivery points.

[3] Designated as: *Kentucky Utilities Co.*, rate schedule FERC No. 122 (service agreement), supplement No. 1 (rate WPS-78), supplement No. 2 (rules, etc.).

[4] We note that KU has not properly pursued or exhausted its available remedies before this Commission. No application for rehearing or petition for reconsideration of our order was filed by KU. Rather, KU submitted a document captioned as a "response" to the August 4, 1978 order, which makes no specific prayer for relief. If we were to construe KU's pleading as, in essence, seeking rehearing of the underlying order, that pleading was untimely under Section 313(a) of the Federal Power Act and under section 1.34 of our regulations, both of which require such submittals to be filed within 30 days after the challenged order. Despite KU's waiver of its appropriate administrative remedies, we will address the issues raised in KU's "response" as a matter of discretion in order to alleviate any misconceptions and to direct compliance with our earlier order, thereby expediting initiation of service to Jackson Purchase at the new delivery point.

ing statement that KU should not be expected to prejudice its rights by voluntarily commencing service at the new delivery point only under a rate schedule and without a reciprocal contractual commitment by Jackson Purchase.

Jackson Purchase addresses the foregoing contentions in a reply to KU's response which was filed by Jackson Purchase on September 11, 1978. Jackson Purchase notes that our August 4, 1978 order did not require KU to submit an executed agreement for service at the Reidland Substation delivery point, but simply directed KU to tender a service agreement in a format similar to the previously filed for Jackson Purchase's other 19 delivery points.

Jackson Purchase correctly construes our prior order in these dockets, which neither required nor contemplated the submittal of an executed contract governing service at the new location. Each of the service agreements for Jackson Purchase which KU filed in docket No. ER78-417 was, in fact, unexecuted. Moreover, the rates, terms and conditions applicable to the Reidland delivery point would not differ from those embodied in the remaining service agreements; the justness and reasonableness of the WPS-78 rates as well as each of the contractual terms and conditions proposed by KU will be subject to inquiry in the hearing to be convened in docket No. ER78-417. As we indicated in the August 4, 1978 order, that hearing will provide a suitable forum in which to litigate disputed provisions of the proposed service agreements and rate schedule as applied to any of Jackson Purchase's delivery points, including the Reidland Substation. As with any service agreement or rate schedule which is permitted to become effective subject to refund, the terms and conditions of KU's proposed agreement will apply to service at the Reidland Substation, pending such modifications as the Commission may determine to be appropriate and in the public interest. We continue to believe that the procedures established in our order of August 4, 1978, fully accomodate the interests of the public and of the parties to this proceeding.

KU's continued recalcitrance with respect to initiation of service at the Reidland Substation is in derogation of our earlier order and such noncompliance with Commission mandates cannot be countenanced. Accordingly, we will require KU to make service available at the Reidland delivery point immediately.

Despite KU's apparent disclaimer of compliance with the supplemental filing requirement set forth in the August 4, 1978, order, we find that KU's submittal of September 1, 1978, does comport with the Commission's directive. Our August 4 order provided that upon timely filing of the supplemental service agreement, we would grant an effective date for that agreement coincident with the effective date established for the filing submitted in docket No. ER78-417. At that time we anticipated that the Reidland interconnection would be energized on or about September 6, 1978, in compliance with the Commission's order. Such has not been the case and it would be unreasonable to permit KU to invoke certain minimum monthly bill provisions prescribed in the proposed service agreement prior to the actual initiation of service under that agreement. Accordingly, we will accept the additional service agreement and accompanying documents for filing and suspend them, to become effective subject to refund, upon initiation of service at the Reidland Substation as herein ordered.

The Commission orders:

(A) KU is hereby directed, in accordance with the Commission's order of August 4, 1978, in docket Nos. ER78-417 and EL78-22, to immediately stand ready to initiate service to Jackson Purchase at the Reidland Substation delivery point and to make such service available under the rates, terms, and conditions specified in KU's September 1, 1978, submittal, subject to refund and such modifications as the Commission may hereafter direct.

(B) Pending the hearing initiated by the Commission's order of August 4, 1978, and decision thereon, KU's supplemental filing of September 1, 1978, is hereby accepted for filing and suspended, to become effective subject to refund, upon initiation of service at the Reidland delivery point as ordered in paragraph (A) above.

(C) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-28981 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Docket No. RP74-100 (PGA78-8)]

NATIONAL FUEL GAS SUPPLY CORP.

Order Accepting for Filing and Suspending Proposed PGA Rate Increase, Initiating Hearing, and Establishing Procedures

SEPTEMBER 29, 1978.

On August 28, 1978, National Fuel Gas Supply Corp. (National Fuel) filed revised tariff sheets [1] to become effective October 1, 1978, reflecting (1) a 0.54-cent-per-Mcf increase in current purchased gas costs of $1,065,680 annually from pipeline and producer suppliers, (2) a 5.11-cent decrease in the surcharge adjustment [2] to recover deferred purchase gas costs of $3,885,439, and (3) the elimination of a 12.18-cent special refund credit surcharge as of September 30, 1978.[3]

National Fuel's proposed PGA rates include the costs of local purchases from small producers within New York. Based on a review of this filing as well as other data in our files concerning the physical location and operation of this pipeline system, the Commission has concluded that these volumes purchased locally cannot flow across the New York border and into Pennsylvania, the other State served by National Fuel. Because this gas is produced, transported, and consumed totally within the State of New York, these sales and the prices paid to the producers are not subject to the Commission's jurisdiction under section 1(b) of the Natural Gas Act.[4] Nonetheless, the Commission has full jurisdiction over National Fuel's collection of these purchased gas costs from its customers. *See, Colorado Interstate Gas Company*, docket No. RP72-122 and RP78-51, order issued September , 1978.

This PGA filing indicates that these local purchases have been made at rates in excess of the nationwide rates. These excess rates apparently result from "favored nations" clauses in the New York producer contracts. There is insufficient evidence for the Commission to find that the prices paid for these purchases were at rates a prudent pipeline would have paid under similar circumstances. Accordingly, the Commission shall suspend National Fuel's PGA filing for 1 day, until October 2, 1978, at which time it may be made effective subject to refund. We will also set for hearing the question of the prudence of these nonjurisdictional purchases.

Public notice of National Fuel's filing was issued on September 7, 1978, with protests and petitions to intervene due on or before September 20, 1978.

The Commission orders: (A) National Fuel's proposed tariff sheets referenced herein are hereby accepted for filing and suspended for 1 day, until October 2, 1978, when they shall become effective subject to refund.

(B) Pursuant to the authority of the Natural Gas Act and the Commission's

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[1] Twenty-first Revised Sheet No. 4 to FERC Gas Tariff, Original Vol. No. 1.

[2] This would decrease the surcharge adjustment from 8.07 cents to 2.96 cents.

[3] Commission order issued Dec. 15, 1977, in docket No. RP74-100 (PGA78-1 and 78-1A) provided for a special refund surcharge credit to be effective Dec. 1, 1977, through Sept. 30, 1978.

[4] Opinion No. 777, issued Sept. 30, 1976, *Colorado Interstate Gas Company*, docket Nos. CP75-323 and CP75-300.

rules and regulations, a public hearing shall be held in this proceeding to determine the prudency of National Fuel's nonjurisdictional New York producer purchases.

(C) National Fuel's case-in-chief in support of the prudence of the above-referenced purchases shall be filed with the Commission no later than October 27, 1978.

(D) Staff's statement of position shall be filed on or before November 30, 1978.

(E) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge (18 CFR 3.5(d)) shall convene a settlement conference in this proceeding to be held within 10 days after the service of staff's statement of position in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. The presiding administrative law judge is authorized to establish such further procedural dates as may be necessary and to rule on all motions (except motions to sever, consolidate, or dismiss) as provided for in the rules of practice and procedure.

(F) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-28982 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Docket No. ER78-621]

NEW BEDFORD GAS & EDISON LIGHT CO.

Filing of Unit Power Sale Rate Schedule

OCTOBER 4, 1978.

Taken notice that on September 21, 1978, New Bedford Gas & Edison Light Co. (New Bedford) filed a rate schedule governing the sale of New Bedford of a portion of its entitlement to capacity and related energy produced by Canal Electric Co.'s Unit No. 2 (the Unit).

By provisions of the tendered rate schedule, New Bedford indicated that it proposes to sell to the Holden Municipal Light Department 0.1712 percent of the net capability of the Unit (as defined at article III of the tendered rate schedule) plus the energy related thereto for a 12-month period beginning November 1, 1978.

A copy of this filing has been served upon Holden, according to the company.

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, 1.10). All such petitions or protests should be filed on or before October 13, 1978. Protests will be considered by the Commission in determining the appropraite 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. 78-28983 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Project No. 2738]

NEW YORK STATE ELECTRIC & GAS CORP.

Application for Major License (Constructed)

OCTOBER 5, 1978.

Take notice that on November 8, 1973, New York State Electric & Gas Corp. (NYSEG) (correspondence to: L. Theodore Everett, Vice President, New York State Electric & Gas Corp., P.O. Box 287, Ithaca, N.Y. 14850, and Huber, Magill, Lawrence & Farrell, 99 Park Avenue, New York N.Y. 10016) filed an application for a major license with the Federal Energy Regulatory Commission for the constructed project No. 2738 located on the Saranac River in Clinton County, N.Y.

The project consists of four developments:

A. High Falls, which is located near Moffittsville, consists of: (1) A reinforced concrete gravity dam, 274 feet wide and 65 feet high; (2) an eastern wingwall 80 feet long and a western one 320 feet long; (3) a reservoir with 550 acre-feet of storage at a normal pool elevation of 1032.0 feet msl; (4) a horseshoe-shaped forebay canal 800 feet long and 250 feet wide; (5) a steel penstock 10 feet in diameter and 1,442 feet long; (6) an 11- by 12-foot concrete-lined tunnel 3,581 feet long; (7) another steel pipe penstock 6 feet in diameter and 487 feet long; (8) a steel surge tank 30 feet in diameter and 67 feet high; (9) a concrete and brick powerhouse 5,200 feet downstream from the dam; (10) two generators rated 4.0 MW each under a design head of 255 feet and one generator rated at 6.1 MW under a head of 230 feet; and (11) appurtenant facilities.

B. Cadyville, which is located 10 miles downstream from the High Falls Development, consists of: (1) A reinforced concrete gravity dam 237 feet wide and 50 feet high with stone masonry and concrete wingwalls; (2) a reservoir with 575 acre-feet of storage at crast elevation of 726.33 feet msl; (3) a concrete intake structure 62 feet long and 20 feet wide leading to a steel penstock 10 feet in diameter and 1,654 feet long; (4) a two-story brick and concrete powerhouse 1,350 feet downstream from the dam; (5) two generating units rated at 1.2 MW each under a design head of 77 feet; and (6) appurtenant facilities.

C. Mill "C" which is approximately 4,000 feet downstream from the Cadyville Development, consists of: (1) A stone masonry gravity dam approximately 350 feet wide and 57 feet high; (2) a reservoir with 20 acre-feet of storage at a crest elevation of 649.2 feet msl; (3) a riveted steel penstock 402 feet long ranging in diameter from 9.5 to 12 feet; (4) a cinder block and stone masonry powerhouse 400 feet downstream from the dam; (5) two generating units, one rated at 1.25 MW and one at 1.0 MW, each under a design head of 66 feet; and (6) appurtenant facilities.

D. Kent Falls, located 1 mile below mill "C" consists of: (1) A reinforced concrete hollow arch dam, 165 feet wide and 58 feet high; (2) a reservoir with 95 acre-feet of storage at a normal pool elevation of 580.27 feet msl; (3) a stone and concrete headworks structure; (4) a steel penstock 11 feet in diameter and 2,668 feet long, bifurcating into two steel penstocks each 6 feet in diameter and 140 feet long; (5) a surge tank 28 feet in diameter and 47 feet high; (6) a concrete and brick powerhouse 2,700 feet downstream from the dam; (7) two generating units each rated at 3.2 MW under a design head of 161 feet; and (7) appurtenant facilities.

The applicant integrates the power developed from the project into its main transmission system for delivery to its customers within New York State.

Existing recreational facilities include a swimming area, picnic tables, and fireplaces on land leased to the town of Plattsburgh, and a small boat launching ramp at the Cadyville site. The applicant states that, in general, steep banks, a steep river slope, and the small water surface areas of the ponds preclude the development of any future recreational facilities other than parking areas for fishermen.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's rules of practice and procedure, 18 CFR § 1.8 or § 1.10 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a

person must file a petition to intervene in accordance with the Commission's rules. Any protest or petition to intervene must be filed on or before December 8, 1978. The Commission's address is: 825 North Capitol Street NE., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-28984 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Docket No. CP78-546]

NORTHWEST PIPELINE CORP.

Application

OCTOBER 4, 1978.

Take notice that, on September 28, 1978, Northwest Pipeline Corp. (Applicant), P.O. Box 1526, Salt Lake City, Utah 84110, filed in docket No. CP78-546 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Southwest Gas Corp. (Southwest), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

As stated in the application, Applicant proposes to transport for Southwest's account up to 6,000 [1] Mcf per day of natural gas. Specifically, Applicant requests authority to transport volumes of natural gas presently developed on an acreage dedicated to Southwest plus the authority to transport such additional volumes of natural gas as may be developed for sale and delivery to Southwest under the acreage set forth in exhibit "A" to that certain agreement dated September 12, 1978, and which would be connected to the facilities of Applicant.

The subject of the instant application is a certain Gas Purchase, Gathering and Transportation Agreement (Agreement), dated September 12, 1978, which provides, inter alia, that Applicant would gather, transport, and redeliver to Southwest up to 6,000 Mcf of natural gas per day which Southwest controls in Grand and Uintah Counties, Utah, and Garfield and Mesa Counties, Colo. The volumes of natural gas proposed for transportation herein would be those volumes developed on the acreage set forth in exhibit "A" to the Agreement which Applicant contemplates connecting to its natural gas transmission system, it is said.

It is stated that pursuant to the terms of the Agreement, Applicant would perform a wellhead gathering service for up to 6,000 Mcf per day for Southwest from present or future wells, located on the acreage set forth on exhibit "A" to the Agreement, which can be connected to Northwest's facilities. It is stated that the acreage dedicated to Southwest is in the general proximity of Applicant's mainline transmission facilities and/or Applicant's Bar-X gathering system in Garfield County, Colo., and Grand County, Utah. Applicant contemplates that it would construct and operate the facilities necessary to connect Southwest's existing wells to Applicant's Bar-X gathering system and/or to Applicant's transmission system. It is stated that the final determination of the precise route of the gathering facilities to connect the existing and future wells dedicated to Southwest would be dependent on the proximity of the individual wells to various of Applicant's facilities and upon the nature of the terrain in the general area. It is further stated that initially, Applicant would connect one existing well to its mainline transmission system.

It is stated that Applicant would transport, by displacement or otherwise, the volumes received at the wellhead for the account of Southwest, less 25 percent of such volumes which Applicant has the right to purchase from Southwest and less applicable fuel and line loss, to either:

(a) An existing point of interconnection between the facilities of Southwest and Applicant on the Idaho-Nevada border in Owyhee County, Idaho. It is said that volumes of natural gas to be transported and delivered at the Idaho-Nevada delivery point would be delivered to Southwest for utilization on Southwest's northern Nevada system; or

(b) A point of interconnection between the facilities of Applicant and El Paso in La Plata County, Colo. It is said that Applicant understands that El Paso would redeliver equivalent volumes to Southwest. It is further said that the volumes of gas delivered to El Paso for Southwest's account would be utilized by Southwest in Arizona or southern Nevada.

The application states that, in consideration for the proposed gathering and transportaion service, Applicant proposes to charge Southwest a gathering charge of 23.05 cents per Mcf plus a transmission charge which would be 20.69 cents per Mcf for those volumes physically transported on Applicant's main transmission system or 50 percent of that amount, i.e., 10.345 cents per Mcf, for those volumes delivered for Southwest's account by displacement. It is said that initially, any volumes delivered at the El Paso delivery point for the account of Southwest, would be by displacement and, therefore, Southwest would be charged the 50-percent rate. It is further said that volumes delivered to Southwest at the Idaho-Nevada border would be physically transported and Applicant would charge Southwest the full transportation rate of 20.69 cents for such deliveries.

It is said that initially, Applicant estimates that approximately 200 Mcf per day would be available for delivery by Southwest to Applicant for gathering and transportation thereunder.

It is also said that pursuant to the Agreement, Applicant would purchase from Southwest up to 25 percent of the volumes delivered for gathering and transportation at a cost equal to Southwest's actual cost of purchasing such volumes.

The application states that Applicant would construct any jurisdictional gathering facilities necessary to effectuate the proposal pursuant to the authorization granted Applicant by the order issued September 30, 1977, at docket No. CP77-507 for budget-type gas purchase facilities.

Any person desiring to be heard or to make any protest with reference to said application should, on or before October 19, 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 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 section 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 or its designee 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 provided for, unless otherwise advised, it will be un-

[1] Unless otherwise specified, all volumes are stated at 14.73 psia and 60° F.

necessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-28985 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Docket No. CP78-547]

NORTHWEST PIPELINE CORP.

Application

OCTOBER 4, 1978.

Take notice that on September 28, 1978, Northwest Pipeline Corp. (Applicant), P.O. Box 1526, Salt Lake City, Utah 84110, filed in docket No. CP78-547 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Southwest Gas Corp. (Southwest), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

As stated in the application, Applicant proposes to gather and transport for Southwest's account up to 2,000[1] Mcf per day of natural gas. Specifically, Applicant requests authority to transport volumes of gas presently developed on an acreage dedicated to Southwest plus the authority to transport such additional volumes of natural gas as may be developed for sale and delivery to Southwest under the acreage set forth in exhibit "A" to that certain agreement dated September 12, 1978, and which would be connected by Applicant to the gathering system of RMNG Gathering Co. (RMNG).

The subject of the instant Application is a certian Gas Purchase, Gathering and Transportation Agreement (Agreement), dated September 12, 1978, which provides, inter alia, that Applicant would gather, transport and redeliver to Southwest up to 2,000 Mcf of natural gas per day, which Southwest controls in Grand and Uintah Counties, Utah and Garfield and Mesa Counties, Colo. The volumes of natural gas proposed for transportation herein would be those volumes developed on the acreage set forth in exhibit "A" to the Agreement which Applicant contemplates connecting to RMNG's gathering system.

It is stated that pursuant to the terms of the Agreement, Applicant would perform a wellhead gathering service for up to 2,000 Mcf per day for Southwest from present or future wells, located on the acreage set forth on exhibit "A" to the Agreement, which can be connected to RMNG's gathering system. The acreage dedicated to Southwest is in the general, proximity of RMNG's gathering system in Garfield County, Colo., it is stated. Applicant contemplates that it would construct and operate the facilities necessary to connect Southwest's existing wells to RMNG's gathering system. It is asserted that the final determination of the precise route of the gathering facilities to connect the existing and future wells dedicated to Southwest would be dependent on the proximity of the individual wells to various of RMNG's facilities and upon the nature of the terrain in the general area. Initially, it is stated, Applicant would connect three existing wells to RMNG's gathering system.

It is further stated that pursuant to a Gas Purchase, Transportation and Exchange Agreement between Applicant and RMNG, RMNG would transport all volumes delivered into its gathering system and redeliver equivalent volumes, adjusted for heating value and less any compressor fuel required, at a point of interconnection between the main transmission facilities of Applicant and the gathering facilities of RMNG located in Mesa County, Colo. It is stated that Applicant would transport, by displacement or otherwise, the volumes delivered by RMNG, for the account of Southwest, less 25 percent of such volumes which Applicant has the right ot purchase from Southwest and less applicable fuel and line loss, to either:

(1) An existing point of interconnection between the facilities of Southwest and Applicant on the Idaho-Nevada border in Owyhee County, Idaho. It is stated that the volumes of natural gas to be transported and delivered at the Idaho-Nevada delivery point would be delivered to Southwest for utilization on Southwest's Northern Nevada System; or

(2) A point of interconnection between the facilities of Applicant and El Paso in La Plata County, Colo. It is stated that Applicant understands that El Paso would redeliver equivalent volumes to Southwest. The volumes of gas delivered to El Paso for Southwest's account would be utilized by Southwest in its Arizona and southern Nevada market areas.

It is said that Applicant and RMNG have agreed to amend further the gas purchase, transportation and exchange agreement, dated February 2, 1977 to add the additional delivery points and acreage necessary to accommodate the delivery to RMNG of the volumnes of gas dedicated to Southwest. It is further stated RMNG would charge Applicant 8 cents per Mcf for the gas transported for Southwest, which amount would be reimbursed by Southwest. RMNG would not have a right to purchase any of the gas delivered by Applicant from wells dedicated to Southwest, it is said.

The application states that in consideration for the gathering and transportation service proposed herein, Applicant proposes to charge Southwest a gathering charge of 23.05 cents per Mcf plus a transmission charge which would be 20.69 cents per Mcf for those volumes physically transported on Applicant's main transmission system or 50 percent of that amount, i.e., 10.345 cents per Mcf for those volumes delivered for Southwest's account by displacement. It is said that initially, any volumes delivered at the El Paso delivery point for the account of Southwest, would be by displacement and, therefore, Southwest would be charged the 50 percent rate. It is further said that volumes delivered to Southwest at the Idaho-Nevada border would be physically transported and Applicant would charge Southwest the full transportation rate of 20.69 cents for such deliveries. As heretofore stated, in addition to the aforementioned gathering and transportation charges, Southwest would reimburse Applicant for the 8 cents per Mcf to be paid RMNG for RMNG's transportation service.

It is said that initially, Applicant estimates that approximately 600 Mcf per day would be available for delivery by Southwest to Applicant for gathering and transportation hereunder.

It is also said that pursuant to the Agreement, Applicant would purchase from Southwest up to 25 per cent of the volumes delivered for gathering and transportation at a cost equal to Southwest's actual cost of purchasing such volumes.

The application states that Applicant would construct any jurisdictional gathering facilities necessary to effectuate the proposal herein pursuant to the authorization granted Applicant by the order issued September 30, 1977 in docket No. CP77-507 for budget-type gas purchase facilities.

Any person desiring to be heard or to make any protest with reference to said application should, on or before October 19, 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 inter-

[1] Unless otherwise specified, all volumes are stated at 14.73 psia.

vene 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 or its designee 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 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. 78-28986 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Docket No. RP77-120]

STINGRAY PIPELINE CO.

Change in Tariff

OCTOBER 4, 1978.

Take notice that on September 21, 1978, Stingray Pipeline Co. (Stingray) tendered for filing Second Substitute Tenth Revised Sheet No. 4 to its FERC Gas Tariff, Original Volume No. 1.

Stingray submits that this revised tariff sheet reflects the settlement rate as approved by the Commission letter order dated September 11, 1978, in docket No. RP77-120.

Stingray states that copies of its filing have been served on all customers, interested State commissions and parties to the proceeding.

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 sections 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 October 23, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants praties 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. 78-28987 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Project No. 2854]

TOWN OF VIDALIA, LA.

Application for Preliminary Permit

OCTOBER 5, 1978.

Take notice that on June 16, 1978, and revised on September 19, 1978, the town of Vidalia, La. (correspondence to: Sidney A. Murray, Jr., Mayor, Town Hall, Vidalia, La. 71373, and J. B. Lancaster, Jr., Forte and Tablada, Inc., P.O. Box 64844, Baton Rouge, La. 70896), filed an application for a preliminary permit with the Federal Energy Regulatory Commission for the proposed Old River project No. 2854, to be located in Concordia Parish, La., about 1 mile southwest of the Mississippi-Louisiana border on the Old River control structure outflow channel which regulates flows between the Mississippi and Red-Atchafalaya Rivers.

The proposed project would use waters diverted by the Corps of Engineers between the Mississippi River and Red-Atchafalaya Rivers, navigable waters of the United States, and would affect lands of the United States under the jurisdiction of the Corps of Engineers.

The Old River project No. 2854 would be operated as a run-of-river project and would consist of: (1) A concrete dam approximately 65 feet high to provide approximately 11 feet of head; (2) a powerplant located approximately 2,000 feet down channel from the existing Corps of Engineers low sill structure; (3) 15 hydroturbine/generators each rated at 8.1 MW capable of total annual generation of 788.4 million kilowatt-hours; (4) 110 miles of 230 kV transmission lines, running both north to the vicinity of the town of Vidalia and south to Big Cajun station near New Roads, La.; and (5) appurtenant facilities.

A preliminary permit does not authorize construction. A permit, if issued, gives the permittee, during the term of the permit, the right of priority of application for license while the permittee undertakes the necessary studies and examinations to determine the engineering and economic feasibility of the proposed project, market for the power, and all other necessary information for inclusion in an application for license.

Applicant proposes to utilize power from this project to meet its present and anticipated load requirements with any surplus capacity or energy being sold to, or exchanged with, electric utilities in the area.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's rules of practice and procedure, 18 CFR § 1.8 or § 1.10 (1977). In determining the appropriated action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's rules. Any protest or petition to intervene must be filed on or before December 8, 1978. The Commission's address is: 825 North Capitol Street NE., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-28988 filed 10-12-78; 8:45 am]

[6740-02-M]

[Docket No. RI78-94]

ADOBE OIL AND GAS CORP.

Notice of Petition for Special Relief

OCTOBER 5, 1978.

Take notice that on September 14, 1978, Adobe Oil and Gas Corp. (Adobe), 1100 Western United Life Building, Midland, Tex. 79701, filed a petition for special relief in Docket No. RI78-94 pursuant to section 2.76 of the Commission's General Policy and Interpretations (18 CFR 2.76).

Adobe states rising operating expenses render production from its Mathis-Davis "A" No. 1 Well, located in the Keyes Area Field, Cimarron County, Okla., uneconomical under the present rate (36 cents). Adobe seeks a rate of 57 cents which it believes will enable it to recover the remaining reserves and to avoid abandonment. Gas produced from this well is sold to Panhandle Eastern Pipe Line Co.

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 requirement 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 27, 1978. All protests filed with the Commission will be considered by it in determining the appropri-

ate action to be taken but will not serve to made 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. 78-29009 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Docket No. RA-78-4]

BAYOU STATE OIL CORP.

Notice Granting Extension of Time

OCTOBER 2, 1978.

On September 22, 1978, Counsel for the Secretary of Energy filed a motion for extension of time within which to file the administrative record and reply to the petition for review in the above captioned proceeding. The motion noted belated service of the petition for review upon the Secretary.

Upon consideration, notice is hereby given that an extension of time is granted to and including October 23, 1978, for the filing of the administrative record and reply to petition for review in this proceeding.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78 29010 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Docket No CP78—544]

COLUMBIA GULF TRANSMISSION CO. AND TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Application

OCTOBER 5, 1978.

Take notice that on September 28, 1978, Columbia Gulf Transmission Co. (Columbia), 3805 West Alabama, Houston, Tex. 77027, and Transcontinental Gas Pipe Line Corp. (Transco), P.O. Box 1396, Houston, Tex. 77001, (Applicants) filed in Docket No. CP78-544 a joint application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas by Columbia and the exchange of natural gas between Applicants, all as more fully set forth in the application on file with the Commission and open to public inspection.

Columbia requests authorization to transport up to 50,000 Mcf of natural gas per day through existing facilities for Transco pursuant to a transportation and exchange agreement dated August 8, 1978, between Applicants, which gas Columbia would receive into its existing facilities at the terminus of a pipeline system owned by Sea Robin Pipeline Co. (Sea Robin), near Erath, La., and transported to Columbia's Rayne, La., Compresssor Station (Exchange Point) at which point, Columbia would retain such gas as exchange gas.

Pursuant to said August 8, 1978, Agreement, Columbia would deliver to Transco at a proposed point of interconnection in Terrebonne Parish, La, the thermal equivalent of the gas received by Columbia at the terminus of the Sea Robin pipeline, adjusted for the removal of liquefiable hydrocarbons and for a pro rata share of the volume of gas unaccounted for and/or used as fuel in the facilities through which the gas is transported to the Exchange Point, it is stated. Columbia also seeks authorization to operate for itself and Transco the facilities at the pont of delivery in Terrebonne Parish.

It is indicated that Columbia would need to construct minor facilities at Transco's expense, at the point of delivery in Terrebonne Parish.

The application states that Transco would pay Columbia for the proposed transportation service a monthly demand charge of 71.0 cents per Mcf (at 14.73 psia) of Contract Demand or such other charge as may be determined by the Commission in an appropriate proceeding.

Applicants assert that the proposed transportation arrangements would connect an estimated 37,300,000 Mcf of gas reserves to Transco's system for initial delivery during the latter part of the 1978-79 winter season which would likely be a period of high demand on its system.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 27, 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.

Take further notice that, pursuant to the authority contained in and subject to 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 or its designee 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, futher notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F PLUMB,
SECRETARY.

[FR Doc 78-29011 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Docket No. CP78-529]

CONSOLIDATED GAS SUPPLY CORP., ET AL

Notice of Application

OCTOBER 5, 1978.

Take notice that on September 19, 1978, Consolidated Gas Supply Corp. (Consolidated), 455 West Main Street, Clarksburg, W. Va. 26301, Columbia Gas Transmission Corp. (Columbia), 1700 MacCorkle Avenue SE., Charleston, W. Va. 25314, and Texas Gas Transmission Corp. (Texas Gas), 3800 Frederica Street, Owensboro, Ky. 42301, filed in Docket No. CP78-529 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing limited-term transportation and storage service for the West Ohio Gas Co. (West Ohio), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Consolidated proposes to accept from West Ohio and inject into storage, during an injection period commencing on or about October 1, 1978, and ending no later than October 19, 1978, up to 200,000 Mcf 14.73 psia of natural gas at reasonably constant daily rates. Commencing on or about November 1, 1978, and ending on November 29, 1978, Consolidated would withdraw the subject storage gas and deliver the same to West Ohio, also at reasonably constant daily rates, it is said, and the entire transaction would take place in less than 60 consecutive days.

It is indicated as consideration for the described storage service, West Ohio has agreed to pay Consolidated in accordance with the rates contained in Consolidated's GSS rate schedule in its effective FERC Gas Tariff, adjusted to an average rate per dekatherm

equivalent of natural gas stored, which would be 30.0 cents per dt injected for storage.

The storage service proposed herein would be on a best-efforts basis and would be subordinate to Consolidated's other delivery obligations.

The gas to be delivered to Consolidated by West Ohio for storage would be delivered by means of concurrent reductions in daily takes by West Ohio from Columbia, one of West Ohio's suppliers, and by Columbia from one of its suppliers, Texas Gas, at an existing delivery point near Lebanon, Ohio. Contemporaneously, Texas Gas would increase its deliveries to Consolidated by an equivalent quantity at Texas Gas' delivery point to Consolidated also near Lebanon, Ohio, thus completing the interchange of gas from West Ohio to Consolidated, it is stated. It is stated that the return transportation of the stored quantities would be accomplished in reverse sequence, and no new facilities would be required to render the propsed service.

For those storage withdrawal volumes transported to West Ohio during the period November 1, 1978, through November 29, 1978, West Ohio has agreed to pay Columbia a transportation charge reflecting Columbia's average systemwide unit storage and transmission cost, exclusive of company use and unaccounted for gas, this being 23.5 cents per Mcf, it is indicated. Such transportation charge would be applied to the total volume of gas delivered by Texas Gas to Columbia near Lebanon, Ohio, for redelivery to West Ohio, it is said. Columbia shall retain for company use and unaccounted-for gas, 2.51 percent of the total volume of gas delivered by Texas Gas to Columbia near Lebanon, Ohio, for redelivery to West Ohio, during the period November 1, 1978, through November 29, 1978, the application indicates.

It is asserted that Texas Gas' verbal agreement with West Ohio to exchange by displacement the storage injection and withdrawal volumes would involve no rates or charges.

It is stated that West Ohio is in need of the storage service proposed herein in order to assure maintenance of adequate service to its high priority customers' requirements in the event of colder than normal weather during the upcoming heating season.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 30, 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.

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 or its designee 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 Consolidated, Columbia or Texas Gas to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29012 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Docket No. CI78-1207]

ESTATE OF H. L. HUNT

Petition for Special Relief

OCTOBER 5, 1978.

Take notice that on September 18, 1978, the Estate of H. L. Hunt (Petitioner), 2900 First National Bank Building, Dallas, Tex. 75202, filed a petition for special relief in Docket No. CI78-1207.

Petitioner states that on Juanuary 17, 1956, in Docket No. G-10335 the Federal Power Commission issued a certificate of public convenience and necessity to H. L. Hunt to make sales of gas in interstate commerce to Trunkline Gas Co. from the Clear Creek Field located in Beauregard and Allen Parishes, La.[1] By FPC order issued April 30, 1975, in Docket No. G-4866, et al. The certificate of public convenience and necessity in Docket No. G-10335 was amended by substituting the Estate of H. L. Hunt in lieu of H. L. Hunt as certificate holder.

Petitioner further states that on January 13, 1975, the Estate of H. L. Hunt and Shenandoah Oil Corp. entered into a gas gathering and compression agreement. Under this agreement, Petitioner, in its unit facilities, gathered, dehydrated, and compressed gas produced by Shenandoah for delivery to Trunkline Gas Co. Petitioner believes that Shenandoah Oil Corp. holds a small producer certificate which covers its gas sales to Trunkline.

Petitioner's sales to Trunkline ceased in December of 1976 due to insufficient production. However, Petitioner states that during the calendar year 1977, Shenandoah's gas was flowing through the unit facilities of Petitioner, and that Petitioner inadvertently used 43,492 Mcf of Shenandoah's gas for its own unit operations for the production of oil. Since the unit has been unproductive, Petitioner is without gas with which to compensate either Shenandoah or Trunkline.

Petitioner requests authorization to pay to either Trunkline Gas Co. or Shenandoah Oil Corp. a sum of money as consideration for the gas inadvertently diverted. In the event that Trunkline Gas Co. objects to Petitioner's proposal for payment and insists upon additional remedies, Petitioner requests authorization to purchase 43,492 Mcf of gas which is not dedicated in interstate commerce and to cause that gas to be delivered to Trunkline Gas Co. In the event that such a purchase is necessary Petitioner further requests that the Commission's authorization be structured so as to subject the sellers of said gas to the jurisdiction of the Commission for this limited purpose only.

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 27, 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 in-

[1] This proceeding was commenced before the FPC. By the joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the FERC. The term "Commission", when used in the context of action taken prior to October 1, 1977, refers to the FPC; when used otherwise, the reference is to the FERC.

tervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29013 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Docket No. RI78-95]

JOSEPH P. MUELLER

Petition for Special Relief

OCTOBER 5, 1978.

Take notice that on September 15, 1978, Joseph P. Mueller (Petitioner), 1010 Wilson Building, Corpus Christi, Tex. 78476, filed a petition for special relief in Docket No. RI78-95 pursuant to § 2.76 of the Commission's General Policy and Interpretations (18 CFR 2.76).

Petitioner requests authorization to charge 101.21¢ per Mcf at 14.65 psia for the sale of gas from its Tomas Saenz No. 1 Well and its Isabelle R. Ferrell "C"-1 Well, Ramirena Field, Live Oak County, Tex., to Valley Gas Transmission Co. Petitioner asserts that due to water influx and lower flowing pressures additional two-stage compression is required in order to continue production. Therefore, petitioner maintains that the above mentioned rate increase is necessary if future production is to be economically feasible.

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 October 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. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29014 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Docket No. EL78-34]

METROPOLITAN SANITARY DISTRICT OF GREATER CHICAGO

Granting Second Extension of Time

OCTOBER 2, 1978.

On September 22, 1978, Counsel for the Metropolitan Sanitary District of Greater Chicago filed a motion for a second extension of time within which to answer the Commission's Order to Show Cause issued August 14, 1978, in the captioned proceeding. The motion noted that a preliminary draft form has been submitted to the Commission.

Upon consideration, notice is hereby given that a second extension of time is granted to and including October 11, 1978, for the Metropolitan Sanitary District of Greater Chicago to file a complete response to the Show Cause Order in this proceeding.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-29026 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Docket No. CP74-316]

MICHIGAN WISCONSIN PIPE LINE CO.

Notice of Amendment

OCTOBER 5, 1978.

Take notice that on September 21, 1978, Michigan Wisconsin Pipe Line Co. (Applicant), One Woodward Avenue, Detroit, Mich. 48226, filed in Docket No. CP74-316 an amendment to its pending petition to amend filed in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to provide for the construction and operation of two 3,600 horsepower compressor units, in lieu of the 3,000 horsepower units which Applicant previously requested authorization to construct and operate, all as more fully set forth in the amendment on file with the Commission and open to public inspection.

It is indicated that pursuant to the order of July 7, 1977, in the instant docket Applicant was authorized, among other things, to acquire and develop as an underground storage field the Leonard Field in Oakland County, Mich., and that on May 4, 1978, Applicant filed a petition to amend said order so as to authorize the acquisition and development for underground natural gas storage of the South Chester 15 Field in Otsego County, Mich., including the construction and operation of facilities incident thereto, in lieu of developing the Leonard Field, which facilities included two 3,000 horsepower compressor units.

The amendment states that Applicant solicited and received quotations from engine manufacturers for the 3,000 horsepower compressor units. However, the engine manufacturer submitting the lowest quotation found, in compiling performance curves, that its 3,600 horsepower compressor units had distinct advantages over the smaller units and suggested that consideration be given to their selection, it is said. Applicant states that in response to this suggestion, it requested and has received from the manufacturer a formal quotation of the 3,600 horsepower units, and that after a detailed engineering analysis, it has concluded that the 3,600 horsepower units are preferable for the following reasons:

1. The 3,600 horsepower unit is environmentally superior in that its nitrogen oxide emissions are lower.

2. The larger engines would permit higher rates of injection into storage early in the storage injection cycle.

3. The cost of the proposed 3,600 horsepower units is lower than the cost estimate of the 3,000 horsepower units. The bid price for the two 3,600 horsepower units is $2,092,712, or some $100,000 less than had been estimated, it is said. It indicated that an offsetting factor is the increased installation cost of the larger units. Even after reflecting this increase, the net increase in the total cost of the compressor station is only $173,000, it is stated.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before October 27, 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. All persons who have heretofore filed need not file again.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29015 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Docket No. E-9502]

MINNESOTA POWER & LIGHT CO.

Granting Extension of Time

OCTOBER 6, 1978.

On September 25, 1978, Counsel for Minnesota Power & Light Co. (M.P. & L.) filed a motion for extension of time within which to comply with ordering paragraph (B) of Commission opinion No. 20 issued August 3, 1978 in the captioned proceeding. The motion notes that M.P. & L. has recently complied with numerous Commission data requests.

Upon consideration, notice is hereby given that an extension of time is granted to and including October 16, 1978, for M.P. & L. to comply with ordering paragraph (B) of Commission opinion No. 20 in this proceeding.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29016 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Docket No. CP78-538]

MOUNTAIN FUEL SUPPLY CO.

Notice of Application

OCTOBER 5, 1978.

Take notice that on September 26, 1978, Mountain Fuel Supply Co. (Mountain Fuel), 180 East First South Street, P.O. Box 11368, Salt Lake City, Utah 84139, filed in docket No. CP78-538 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation and exchange of up to 1,000 Mcf per day of natural gas with Northwest Pipeline Corp. (Northwest), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The application indicates that Northwest has certain gas reserves committed to it in the Yellow Creek Unit in Uinta County, Wyo., which is remote from Northwest's existing system and that Mountain Fuel has natural gas gathering and transmission facilities in said area and is willing to transport and exchange natural gas with Northwest. It is stated that Mountain Fuel and Northwest have entered into a gas purchase, transportation, and exchange agreement, dated June 22, 1978, providing for the subject proposal.

Mountain Fuel proposes to receive gas delivered by Northwest at a point on Mountain Fuel's gathering facilities in Uinta County, Wyo. Mountain Fuel would, under its proposal, then redeliver by displacement, equivalent volumes, at an existing point of interconnection between the facilities of Mountain Fuel and Northwest in Sweetwater County, Wyo. It is asserted that Mountain Fuel has the right to purchase up to 25 percent of the volumes delivered by Northwest. It is further stated that Mountain Fuel would charge 8 cents per Mcf for transportation of all gas not purchased by Mountain Fuel.

It is asserted that the subject agreement would be for a primary term of 10 years commencing on the first day of the month following the initiation of deliveries, and on a year-to-year basis thereafter.

It is asserted that the facilities necessary to gather Northwest's volumes and to connect these facilities to Mountain Fuel's transmission system are already in place.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 27, 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. 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 or its designee 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. 29017 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Docket No. CP78-534]

NATURAL GAS PIPELINE CO. OF AMERICA

Notice of Application

OCTOBER 5, 1978.

Take notice that on September 22, 1978, Natural Gas Pipeline Co. of America (Applicant), 122 South Michigan Avenue, Chicago, Ill. 60603, filed in Docket No. CP78-534 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for South Texas Natural Gas Gathering Co. (South Texas) and the construction and operation of facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is indicated that Applicant and South Texas have entered into a Transportation Agreement dated August 18, 1978, whereby Applicant would receive on a best efforts basis up to 3,000 Mcf per day of natural gas from South Texas at a mutually agreeable point on Applicant's 8-inch lateral in Starr County, Tex. Applicant states that it would redeliver to South Texas equivalent volumes on an Mcf-for-Mcf basis at an existing interconnection located in Hidalgo County, Tex.

It is stated that Applicant proposes to construct and operate a 3-inch tap connection on its 8-inch lateral in Starr County, Tex., at a cost estimated by Applicant to be $7,100.

It is stated that under the terms of the abovementioned Agreement, Applicant would charge South Texas for the transportation service one-quarter of 1 cent (¼¢) per Mcf of transportation gas delivered to South Texas at the point of redelivery, or a monthly charge of $250, whichever is greater. The term of the agreement is 3 years from the date of first deliveries thereunder and thereafter until canceled by thirty (30) days notice of one party to the other, it is indicated.

It is further stated that the environmental impact of construction and operation of the proposed facilities would be minimal.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 27, 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 not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate 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 or its designee on this application if no peti-

tion 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. 78-29018 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Docket No. RP71-125 (PGA No. 78-2)]

NATURAL GAS PIPELINE CO. OF AMERICA

Granting Revised Procedural Schedule

OCTOBER 5, 1978

On September 25, 1978, Counsel for Natural Gas Pipeline Co. of America (Natural) filed a motion to revise the procedural schedule in the captioned proceeding pursuant to the Commission's order of August 31, 1978. The motion stated that staff counsel agrees to the proposed schedule revision.

Upon consideration, notice is hereby given that the following procedural schedule is established for this proceeding:

October 20, 1978—Service of Natural's response to interrogatories

October 31, 1978—Prehearing Conference

November 14, 1978—Service of Natural's case-in-chief

December 14, 1978—Staff's statement of position

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29019 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Project No. 2738]

NEW YORK STATE ELECTRIC & GAS Corp.

Application for Major License (Constructed)

OCTOBER 5, 1978.

Take notice that on November 8, 1973, New York State Electric & Gas Corp. (NYSEG) (correspondence to: L. Theodore Everett, Vice President, New York State Electric & Gas Corp., P.O. Box 287, Ithaca, N.Y. 14850, and Huber, Magill, Lawrence & Farrell, 99 Park Avenue, New York, N.Y. 10016) filed an application for a major license with the Federal Energy Regulatory Commission for the constructed Project No. 2738 located on the Saranac River in Clinton County, N.Y.

The project consists of four developments:

A. High Falls, which is located near Moffittsville, consists of: (1) a reinforced concrete gravity dam, 274 feet wide and 65 feet high; (2) an eastern wingwall 80 feet long and a western one 320 feet long; (3) a reservoir with 550 acre-feet of storage at a normal pool elevation of 1032.0 feet msl; (4) a horseshoe shaped forebay canal 800 feet long and 250 feet wide; (5) a steel penstock 10 feet in diameter and 1,442 feet long; (6) an 11 by 12 foot concrete-lined tunnel 3,581 feet long; (7) another steel pipe penstock 6 feet in diameter and 487 feet long; (8) a steel surge tank 30 feet in diameter and 67 feet high; (9) a concrete and brick powerhouse 5,200 feet downstream from the dam; (10) two generators rated 4.0 MW each under a design head of 255 feet and one generator rated at 6.1 MW under a head of 230 feet; and (11) appurtenant facilities.

B. Cadyville, which is located 10 miles downstream from the High Falls Development, consists of: (1) a reinforced concrete gravity dam 237 feet wide and 50 feet high with stone masonry and concrete wingwalls; (2) a reservoir with 575 acre-feet of storage at crest elevation of 726.33 feet msl; (3) a concrete intake structure 62 feet long and 20 feet wide leading to a steel penstock 10 feet in diameter and 1,654 feet long; (4) a two story brick and concrete powerhouse 1,350 feet downstream from the dam; (5) two generating units rated at 1.2 MW each under a design head of 77 feet; and (6) appurtenant facilities.

C. Mill "C" which is approximately 4,000 feet downstream from the Cadyville Development, consists of: (1) a stone masonry gravity dam approximately 350 feet wide and 57 feet high; (2) a reservoir with 20 acre-feet of storage at a crest elevation of 649.2 feet msl; (3) a riveted steel penstock 402 feet long ranging in diameter from 9.5 to 12 feet; (4) a cinder block and stone masonry powerhouse 400 feet downstream from the dam; (5) two generating units, one rated at 1.25 MW and one at 1.0 MW, each under a design head of 66 feet; and (6) appurtenant facilities.

D. Kent Falls, located one mile below Mill "C" consists of: (1) a reinforced concrete hollow arch dam, 165 feet wide and 58 feet high; (2) a reservoir with 95 acre-feet of storage at a normal pool elevation of 580.27 feet msl; (3) a stone and concrete headworks structure; (4) a steel penstock 11 feet in diameter and 2,668 feet long, bifurcating into 2 steel penstocks each 6 feet in diameter and 140 feet long; (5) a surge tank 28 feet in diameter and 47 feet high; (6) a concrete and brick powerhouse 2,700 feet downstream from the dam; (7) two generating units each rated at 3.2 MW under a design head of 161 feet; and (8) appurtenant facilities.

The applicant integrates the power developed from the project into its main transmission system for delivery to its customers within New York State.

Existing recreational facilities include a swimming area, picnic tables, and fireplaces on land leased to the town of Plattsburgh, and a small boat launching ramp at the Cadyville site. The applicant states that, in general, steep banks, a steep river slope, and the small water surface areas of the ponds preclude the development of any future recreational facilities other than parking areas for fishermen.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before December 8, 1978. The Commission's address is: 825 North Capitol Street NE., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29020 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Docket No. ES78-58]

NORTHWESTERN PUBLIC SERVICE CO.

Notice of Application

OCTOBER 5, 1978.

Take notice that on September 25, 1978, Northwestern Public Service Co. filed an application with the Commission pursuant to section 204 of the Act and Part 34 of the Regulations, for authorization to engage in negotiations for the sale of up to $12 million first Mortgage Bonds and up to 400,000 shares of Common Stock, par value $7 per share, pursuant to section 34.1a(a)(4) and 34.2(f)(2) of the Regulations under the Act.

Applicant is incorporated under the laws of the State of Delaware, with its principal business offices at Huron, S.

Dak., and is authorized to do business in the States of Iowa, North Dakota, and Nebraska.

Applicant indicates that a portion of the proceeds from the proposed First Mortgage Bond and Common Stock financings will be used to repay outstanding short-term bank loans, which are expected to total $17,000,000 at the anticipated time of closing, with the balance to become treasury funds to be used for the company's 1979 construction program.

Applicant beleves that a negotiated underwritten public offering of the Common Stock would be advantageous because of the relatively small amount of Common Stock involved, because of the successful prior negotiated offerings of Common Stock, and because the underwriter will be required to presell the issue to ensure a satisfactory market.

Applicant states that it believes that a negotiated sale of the First Mortgage Bonds would be advantageous for similar reasons, but indicates that the decision whether to sell the Bonds in a public offering or through a private placement will be made after consideration of data to be developed in negotiations.

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, 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 shall be filed on or before October 17, 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. 78-29021 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Docket No. ER78-513]

PUBLIC SERVICE CO. OF INDIANA, INC.

Granting Extension of Time

OCTOBER 5, 1978.

On September 14, 1978, Public Service Co. of Indiana, Inc. (PSCI) filed a motion for extension of time within which to comply with the Commission's order of August 25, 1978, in the captioned proceeding. The motion stated that all intervening wholesale customers do not oppose the proposed extension.

Upon consideration, notice is hereby given that an extension of time is granted to and including October 25, 1978, for PSCI to comply with the Commission's order of August 25, 1978 in this proceeding.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29022 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Docket No. CP70-7 (Phase II)]

SOUTHERN NATURAL GAS CO.

Petition To Amend

OCTOBER 5, 1978.

Take notice that on September 20, 1978, Southern Natural Gas Co. (Southern), P.O. Box 2563, Birmingham, Ala. 35202, filed in Docket No. CP70-7 (Phase II) a petition to amend pursuant to sections 7(b) and (c) of the Natural Gas Act the order of the Commission of October 29, 1969[1] (42 FPC 944), as amended, issued in said docket pursuant to section 7(c) of the Natural Gas Act issuing a certificate of public convenience and necessity authorizing the sale and delivery of natural gas. Southern proposes to increase its contract demand sales of natural gas to Atlanta Gas Light Co. (Atlanta) from 739,550 Mcf per day to 740,080 Mcf per day, to deliver such additional gas at the delivery point formerly used to serve the city of Temple, Ga., and to abandon its sales of natural gas to the latter customer. Southern's proposals are more fully set forth in the petition to amend on file with the Commission and open to public inspection.

Southern states that it has been informed by Atlanta that Atlanta purchased from the city of Temple the gas system of the city of Temple and as a part of such purchase Southern's maximum delivery obligation to the city of Temple of 530 Mcf per day was assigned to Atlanta. Southern requests that it be authorized to sell to Atlanta an additional contract demand of 530 Mcf per day, that it be authorized to deliver this gas to Atlanta at the delivery point formerly utilized by the city of Temple, and that it be permitted to abandon sales and deliveries to the city of Temple.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before October 27, 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.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29024 Filed 10-12-78; 8:45 am]

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the FERC.

[6740-02-M]

[Docket No. RP75-73 (AP No. 78-3)]

TEXAS EASTERN TRANSMISSION CORP.

Granting Extension of Time

OCTOBER 5, 1978.

On September 21, 1978, Counsel for Texas Eastern Transmission Corp. (Texas Eastern) filed a motion for extension of time within which to file its case-in-chief in the captioned proceeding pursuant to the Commission's order of September 1, 1978. The motion stated that staff agrees to the proposed extension.

Upon consideration, notice is hereby given that an extension of time is granted to and including October 10, 1978, for the filing of Texas Eastern's case-in-chief in this proceeding. Staff's statement of position shall be filed on or before November 22, 1978.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29025 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Docket No. CP78-227]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Petition To Amend

OCTOBER 5, 1978.

Take notice that on September 27, 1978, Transcontinental Gas Pipe Line Co. (Petitioner), P.O. Box 1396, Houston, Tex. 77001, filed in Docket No. CP78-227 a petition to amend the order of June 22, 1978, issued in the instant docket (57 FPC ——) pursuant to section 7(c) of the Natural Gas Act so as to authorize the continued transportation of natural gas for Trunkline Gas Co. (Trunkline) through December 31, 1979, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

Pursuant to the order of June 22, 1978, Petitioner was authorized to

transport on an interruptible basis up to 75,000 Mcf of natural gas per day for Trunkline during a limited period ending December 31, 1978. Petitioner states that Trunkline delivers or causes the subject gas to be delievered into Petitioner's Southwest Louisiana Gathering System in Cameron Parish, La., and that Petitioner delivers a thermally equivalent quantity (less compressor fuel and line loss makeup) to Trunkline at existing interconnections between the two system near Katy, Waller County, Tex., and Ragley, Beauregard Parish, La. It is asserted that the transportation service assists Trunkline by delivering to its system pending the installation of expanded facilities on Trunkline's Lakeside Lateral, substantial volumes of gas available to Trunkline in the High Island Area, offshore Texas and delivered to Petitioner in Cameron Parish through facilities of High Island Offshore System and U-T Offshore System. Pursuant to the Transportation agreement between Petitioner and Trunkline date February 1, 1978, the subject transportation would continue in effect from April 1, 1978, until the date Trunkline has installed and placed in service the expanded facilities on its Lake Side Lateral, presently expected to be in service by November 1, 1978 or until December 31, 1978, whichever first occurs, it is stated.

It is indicated that Trunkline has advised Petitioner that its capacity problem in the South Louisiana area would continue past the present termination date of the February 1, 1978, agreement and requests that Petitioner extend the term of said agreement through December 31, 1979. Consequently, Petitioner and Trunkline have entered into an amendatory agreement dated September 6, 1978, which agreement extends the term of the transportation service through December 31, 1979.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before October 27, 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 1.0) 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 accorance with the Commission's Rules.

KENNETH F. PLUMB
Secretary.

[FR Doc. 78-29027 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Docket No. RI78-40]

GAS ROCK CORP., ET AL.

Petition for Special Relief

OCTOBER 4, 1978.

Take notice that on March 13, 1978, Gas Rock Corp., P.O. Drawer 1729, Hattiesburg, Miss. 39401 and Wiley Fairchild, P.O. Box 1609, Hattiesburg, Miss. 39401 (Petitioners), filed a joint petition for special relief in Docket No. RI78-40 pursuant to § 2.76 of the Commission's General Policy and Interpretations (18 CFR 2.76). Take further notice that on August 29, 1978, petitioners filed an amended petition in order to request a specific rate as required by § 2.76.

Petitioners seek authorization to charge 79.68 cents per Mcf for gas sold to Southern Natural Gas Co. from the Fairchild-Dock Magee gas well located on a unit described as Section 12, Township 2 North, Range 11 West, Walthall County, Miss. Petitioners state that production from the Dock Magee well would have been curtailed as of July 31, 1977 without the installation of a compressor which was installed on a rental basis in August 1977. Therefore Petitioners seek said relief retroactive to August 1, 1977.

Any person desiring to be heard or to make any protest with reference to said petition should on or before October 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). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-28991 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Docket No. CI76-253]

CIG EXPLORATION, INC.

Petition to Intervene Out of Time and to Reopen Record

OCTOBER 3, 1978.

Take notice that August 22, 1978, Monsanto Co., et al.[1] (Petitioners), 1300 Post Oak Tower, 5051 Westheimer, Houston, Tex. 77056, filed a petition out of time in Docket No. CI76-253 for leave to intervene and with the request that the record be reopened pursuant to §§ 1.7 and 1.8 of the Commission's Rules of Practice and Procedure (18 CFR 1.7 and 1.8).

Petitioners state that on January 18, 1978, CIG Exploration, Inc. (CIGE) was granted a certificate of public convenience and necessity in Docket No. CI76-253 authorizing the sale of natural gas to Colorado Interstate Gas Co. (CIGC) from the Madden Deep Field, Freemont County, Wyo. On the same day, January 18, 1978, a complaint was filed by petitioners in the District Court for the Ninth Judicial District, County of Freemont, State of Wyoming, in Civil Action No. 18750. As a result of this litigation it may be determined that CIGE owns no interest in gas produced and sold pursuant to the authorization granted in Docket No. CI76-253. Therefore, Monsanto et al., desire to intervene in this proceeding in order to protect their interests as they may appear and request that the record in this proceeding be reopened for the limited purpose at this time of receiving the complaint in Civil Action No. 18750 as evidence of their potentially adverse interest of ownership in the gas now being delivered to CIGC.

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 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 20, 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 ac-

[1] Joining in this petition are Monsanto Co., W. A. Moncrief, Jr.; Inexco Oil Co., North Central Oil Corp., Sohio Natural Resources Co. (formerly Sohio Petroleum Co.), W. A. Grace & Co., Yates Drilling Co., Martin Yates III; Erving Wolfe and Harold B. Ehrlich.

cordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-28989 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Docket No. RP76-135]

CITIES SERVICE GAS CO.

Proposed Changes in FERC Gas Tariff

OCTOBER 2, 1978.

Take notice that Cities Service Gas Co. (Cities Service) on September 22, 1978, tendered for filing Third Revised Sheet No. 6 to its FERC Gas Tariff, Original Volume No. 1. Cities Service states that this filing is in compliance with the Commission's order issued December 21, 1977, in Docket No. RP76-135, approving the September 13, 1977, Stipulation and Agreement (Article V, Section 2).

Cities Service states that copies of its filing were served on all jurisdictional customers, interested State commissions and all parties to the proceedings in Docket Nos. RP72-142, RP74-4, and RP76-135.

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 or 1.10 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 20, 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 proceedings. 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. 78-28990 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Docket No. RP78-37]

LAWRENCEBURG GAS TRANSMISSION CORP.

Certification of Record in Connection With Proposed Settlement Agreement

OCTOBER 4, 1978.

Take notice that on August 15, 1978, Chief Administrative Law Judge Zwerdling certified to the Commission the record compiled in this docket in connection with a settlement agreement which had been filed with the Commission on July 3, 1978.

Any person desiring to be heard or to protest said Settlement Agreement should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before October 30, 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. 78-28992 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Docket No. RI78-93]

MAPCO Inc.

Petition for Special Relief

OCTOBER 4, 1978.

Take notice that on September 12, 1978, MAPCO Inc., 1800 South Baltimore Avenue, Tulsa, Okla. 74119 (Petitioner), pursuant to the provisions of § 2.76 of the Statements of General Policy and Interpretations of the Federal Energy Regulatory Commission, filed a Petition for Special Relief from the applicable adjusted rate ceiling for residue natural gas to be sold from a proposed new replacement processing plant at Tyrone, Okla. Petitioner requests authority to increase its sales price of residue gas to Northern Natural Gas Co. under its Gas Rate Schedule No. 10 in the amount of 2.4240 cents per Mcf above the applicable adjusted rate. Petitioner asserts that the replacement processing plant will conserve and make available significant volumes of residue gas now consumed as fuel at the existing processing plant, as well as permit the extraction of additional volumes of natural gas liquids. the Department of Energy's Office of Hearings and Appeals has already granted MAPCO Inc.'s Application for Exception, conditionally permitting it to sell the natural gas liquids produced at the new replacement processing plant at a price in excess of that specified in Subpart K of the Department of Energy's Mandatory Petroleum Price Regulations. Under the order, the exception relief granted by DOE is contingent upon Petitioner filing a petition for special relief pursuant to 18 CFR 2.76. The DOE will make appropriate adjustments in the level of exception relief applicable to the natural gas liquids depending on the extent of relief granted by the FERC. Special rate relief is requested from the FERC as a means of equitably distributing the costs generated by the investment between consumers of the additional volumes of residue gas and natural gas liquids to be made available by construction of the new replacement processing plant. The requested special rate relief would apportion to the residue gas a share of the cost of the relief awarded by the Department of Energy's Office of Hearings and Appeals, calculated on the basis of the ratio between the respective Btu contents of the additional volumes of residue gas and natural gas liquids which will result from construction of the replacement gas plant.

Any person desiring to be heard or to make any protest with reference to said petition should on or before October 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). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-28993 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Docket No. CP78-327, etc.]

MID-CONTINENT GAS STORAGE CO., ET AL.

Settlement Proposal

OCTOBER 5, 1978.

In the matter of Mid-Continent Gas Storage Co., Southern Natural Gas Co., docket No. CP78-327; Northern Illinois Gas Co., docket No. G-10632; Tennessee Gas Pipeline Co., a Division of Tenneco, Inc., Midwestern Gas Transmission Co., Southern Natural Gas Co., docket No. CP78-349.

Take notice that on October 2, 1978, the above-captioned parties filed a proposed Stipulation and Agreement and a motion for approval thereof in hopes of securing a settlement in the instant dockets. The substance of the proposal is quoted as follows:

STORAGE SERVICE

Southern has a serious need to increase its permanent storage capacity in order to satisfy its peak day requirements as has been demonstrated during the past two winters. In the 1976-77 winter, southern was required to curtail 100 percent of the gas allocated for industrial uses on its system for the entire period beginning January 11, 1977, and ending February 22, 1977. For 2 days in the middle of Janu-

ary during this period, Southern had to curtail deliveries partially to priority 1 customers (residential and small commercial requirements) because of extended cold temperatures. similar but less severe curtailments were experienced during the 1977-78 winter. All priority 3 requirements were curtailed from January 22, 1978, through March 18, 1978, as were 40 percent of priority 2 from February 9, 1978, through March 11, 1978. If the proposed storage service had been available to Southern at the time, it would have been able to serve all of its high priority 1 through 3 requirements during the past winter. Testimony submitted in docket No. TC78-25, Southern's omnibus filing, projects that due to an improvement in gas supply all priority 1 through 3 needs can be met during the 1978-79 winter even under colder than normal weather conditions. However, that projection is partly based on the assumption that the instant storage proposal will be operational.

To meet its need on a long term basis, Southern, along with Tennessee & Bear Creek Storage Co. have filed applications with the Commission to develop a natural gas storage field in the Bear Creek field located in Bienville Parish, La. Because the Bear Creek project is not expected to be operational before the winter of 1981-82, Southern contracted with Mid-Continent for a temporary storage service until that time.

The Limited Term Storage Agreement (Agreement) between Mid-Continent and Southern, dated March 23, 1978, provides that Mid-Continent will provide Southern with up to 15 Bcf of storage capacity for each injection period (April 1 through November 30) during the term of the Agreement. Because the Agreement permits Southern to make advance withdrawals of gas, this storage capacity will be available to Southern for use during the up-coming winter heating season.

By providing Southern with immediate storage capacity through the 1980-81 winter, the proposed storage service fulfills Southern's temporary storage needs. for this reason, all parties agree that the proposed storage service is in the public interest and that the present and future public convenience and necessity require certification of the services proposed by Southern and the granting of a limited term certificate with pregranted abandonment to Mid-Continent to docket No. CP78-327.

Since the parties believe the proposed storage service is in the public interest, a settlement price of 82.40 cents per Mcf of storage capacity has been agreed to. The amendment to the Agreement providing for this price (and certain other minor necessary modifications to the Agreement) is attached as exhibit A. An affidivit by William E. Matthews, IV, Senior Vice President of Southern, supporting the reasonableness of this price is attached as exhibit B.

JURISDICTION

In order to provide the proposed storage services to Southern, Mid-Continent has leased an undivided interest in NI-Gas' intrastate storage and related transportation system pursuant to the terms and provisions of a "Limited Term Storage Leasing Agreement" dated March 23, 1978 (the "Lease").[1] The Lease is for an express limited term ending November 30, 1981. This Lease does not involve NI-Gas in any interstate transportation or sale of natural gas.

Under the terms of the Lease, Mid-Continent must accept injection gas from Southern at the already existing interconnection of NI-Gas' intrastate facilities with those of Midwestern Gas Transmission Co. ("Midwestern") or one or more of NI-Gas' other existing pipeline suppliers. The net effect of the Lease upon NI-Gas is that during some months, deliveries from Midwestern will increase but will be decreased by a corresponding equivalent amount during other months. "Withdrawal" of storage gas will be accomplished by NI-Gas backing off its interstate takes and causing such volumes to be made available to Southern via Midwestern and Tennessee. Physically, such an arrangement will not result in any increase of annual deliveries to NI-Gas and all gas received by NI-Gas from Mid-Continent under the terms and provisions of the Lease will be physically received and consumed In Illinois. None of the gas so received by NI-Gas can or will at any time thereafter flow outside the State of Illinois or in interstate commerce.

In the course of the settlement discussions, questions were raised as to the effect of the transactions contemplated under the Lease upon NI-Gas' status under the Natural Gas Act. As a public utility with all of its operations conducted solely within the State of Illinois, NI-Gas is subject to the jurisdiction of the Illinois Commerce Commission (Ill. C.C.) under the Illinois Public Utilities Act and the Lease is subject to Ill. C.C. review and approval. Pursuant to an Order issued July 26, 1956, in Docket No. G-10632. NI-Gas is exempt from the provisions of the Natural Gas Act under Section 1(c) thereof. In Docket No. G-10632, NI-Gas requested the Commission to issue an order declaring that its existing exemption under Section 1(c) will not be affected by the lease arrangement with Mid-Continent.

This Stipulation and Agreement recognizes that (1) Mid-Continent will be a jurisdictional natural gas company subject to Commission jurisdiction and (2) by conditioning the certificated in accordance with this Stipulation and Agreement, the Commission will have exercised plenary jurisdiction over the subject storage transaction. Therefore, since the Lease is conditioned upon the continuation of NI-Gas' nonjurisdictional status under the Natural Gas Act it is agreed that the exemption order requested by NI-Gas in Docket No. G-10632 should be issued.

TRANSPORTATION

In Docket No. CP78-349, Tennessee requested authorization to transport all injection and withdrawal volumes for Southern. For this transportation service, Southern has agreed to pay 21.09 cents per Mcf of gas delivered to Tennessee for Southern's account for injection into storage (see exhibit D for the deriviation of this rate) and to permit Tennessee to retain 4.67 percent of the volumes of gas delivered to Tennessee by Southern for transportation for fuel, company use, and loss and unaccounted for gas incurred by Tennessee in rendering the transportation service. In the event the total amoung paid to Tennessee for transportation services rendered during any injection period (April through November) is less than $2,109,000, then Southern will pay an additional charge equal to the difference between $2,109,000 and the amount actually paid. Southern will receive a credit against such charge to the extent that Tennessee's inability to transport gas results in less than 10 Bcf of gas being transported during any injection period. Tennessee has contracted with Midwestern for the transportation, in part, of Southern's gas and has agreed to pay Midwestern 7.48 cents per Mcf of gas delivered for Southern's account for injection into storage and to permit Midwestern to retain a portion of the 4.67 percent fuel and use volume. Tennessee will also pay a minimum bill based upon the transportation of 10 Bcf during each injection period and will also receive a credit against said minimum bill to the extent Midwestern's inability to transport gas results in less than 10 Bcf being transported during any injection period.

In the same docket, Southern requested authorization to modify the existing facilities at the interconnection of its system and Tennessee's system near Pugh, Miss., and to install certain new facilities at this point of interconnection in order to facilitate the delivery and receipt of the injec-

[1] The Lease has been amended by an Amendatory Agreement dated September 11, 1978, to conform to the amendment to the Limited Term Storage Agreement of even date. This Amendatory Agreement is attached as exhibit C.

tion and withdrawal volumes. The estimated cost of these modifications is approximately $142,447.

The parties agree that it is in the public interest for Tennessee and Midwestern to render the proposed transportation services at the proposed rates [2] and for Southern to make the proposed modification to the interconnection between its system with Tennessee's system near Pugh, Miss., and that the present and future public convenience and necessity require certification of the activities proposed by Tennessee, Midwestern, and Southern in Docket No. CP78-349.

EFFECTIVENESS

This Stipulation and Agreement shall become effective upon the receipt and acceptance of the Commission's order approving the same without modification or condition, provided however, that if any party shall file a petition for rehearing of said order, the effectiveness of this Stipulation and Agreement shall abate at the option of either Southern or Mid-Continent until said order shall have become final and no longer subject to judicial review.

* * *

Comments to the proposed Stipulation and Agreement may be filed with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before October 16, 1978. Such Comments will be considered by the Commission in determining appropriate action, but will not serve to make commenters parties to the proceeding.

The record in this proceeding, including the Stipulation and Agreement, the motion for approval tariff filing, is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-28994 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Docket No. CP78-528]

NORTHWEST PIPELINE CORP.

Application

OCTOBER 4, 1978.

Take notice that on September 19, 1978, Northwest Pipeline Corp. (Applicant), 315 East Second South, Salt Lake City, Utah 84111, filed in Docket No. CP78-528, an application for a certificate of public convenience and necessity, pursuant to section 7(c) of the Natural Gas Act, authorizing the construction and operation of a new point of delivery of natural gas to the Washington Water Power Co. (Water Power), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that Water Power has requested Applicant to make a farm tap on its 6-inch Couer D'Alene Lateral in order to provide natural gas service to a worm farm located in Spokane County, Wash. It is stated that the maximum daily deliverability would be 2.4 Mcf of gas and that the annual volumes would be 285 Mcf of gas, with such volumes to be from quantities previously authorized for delivery to Water Power. It is further stated that the proposed service is necessary in order to maintain a temperature of 65° F in the worm shed to assure adequate protection of the product.

Applicant proposes no further changes in its service to Water Power.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 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 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, or its designee, 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. 78-28995 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Project No. 2216]

POWER AUTHORITY OF THE STATE OF NEW YORK

Notice Granting Intervention

OCTOBER 2, 1978.

The Power Authority of the State of New York (PASNY) filed a Petition for Declaratory Order on March 6, 1976. PASNY requests the entire amount of replacement power (445,000 kilowatts) Niagara Mohawk Power Corp. (Niagara Mohawk) receives from PASNY under Article 22 of the license for the Niagara Project No. 2216 be allocated by Niagara Mohawk to industries located in the western New York area.

On May 24, 1978, the Municipal Electric Utilities Association of New York State (MEUA) filed a petition to intervene. MEUA is a nonprofit corporation consisting of 46 municipal and rural electric cooperatives in New York State. MEUA states that, as preference customers, they are entitled to at least 50 percent of the power made available for sale from the Niagara Project No. 2216. MEUA further states that they are not currently receiving their 50 percent and request that the 173 MW of power subject to dispute in this case be allocated to and reserved for preferential use by MEUA members.

No responses to MEUA's petition have been filed.

Pursuant to § 3.5(a) of the Commission's Rules of Practice and Procedure, 18 CFR 3.5(a), as promulgated by the FERC Rulemaking RM78-9 (issued August 14, 1978), MEUA is permitted to intervene in this proceeding subject to the Commission's Rules and Regulations under the Federal Power Act, 16 U.S.C. 791(a)-825(r). Participation of the Intervenor shall be limited to matters affecting asserted rights and interests specifically set forth in its petitions to intervene. The admission of the Intervenor shall not be construed as recognition by the Commission that it might be aggrieved by any order entered in this preceeding.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-28996 Filed 10-12-78; 8:45 am]

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[2] Actual transportation rates will reflect the outcome of Midwestern's and Tennessee's rate cases pending in Docket Nos. FP78-23 and RP78-62, respectively.

[6740-02-M]

[Docket No. ER78-507]

PUBLIC SERVICE CO. OF COLORADO

Order Accepting Rates for Filing, Suspending Proposed Rate Increase, Allowing Interventions, and Establishing Procedures

OCTOBER 4, 1978.

On July 24, 1978, as completed September 5, 1978,[1] Public Service Co. of Colorado (PSCC) tendered for filing a proposed rate increase to five municipals, two private utilities, and two cooperative customers.[2] The proposed rate increase would result in additional revenues of approximately $2,052,707 (7.8%), based upon a test period consisting of the 12 months ending December 31, 1978.

Public notice of PSCC's filing was issued on July 27, 1978, with responses due on or before August 11, 1978.

On August 11, 1978, Intermountain Rural Electric Association (IREA) and Central Telephone & Utilities Co. (CTU), filed protests to PSCC's application and petitions to intervene. IREA requested a 1-day suspension of PSCC's proposed rates. On August 28, 1978, the town of Lyons, Colo. (Lyons) filed a Motion to Permit Late Filing of Protest and Petition to Intervene. Lyons urges the Commission to institute a hearing and suspend the proposed rates for the full statutory period.

In support of its filing, PSCC states that the rate increase is necessary because of the effect on PSCC's operations of escalating costs and inadequate rate of return on its investment.

We note that PSCC's case-in-chief includes an allocation of a portion of Liquid Metal Fast Breeder Reactor (LMFBR) research contributions and Electric Power Research Institute (EPRI) contributions to the resale cost of service. In *Carolina Power & Light Co.*, Opinion No. 19, we affirmed that part of the Initial Decision in which the Presiding Judge removed LMFBR contributions from the wholesale customers' cost of service.[3]

Contributions to EPRI are voluntary and are made on the basis of retail sales. Moreover, many wholesale customers make contributions to LMFBR and EPRI on the basis of their retail sales. Accordingly, we shall summarily dispose of the allocation to resale cost of service of contributions to LMFBR and EPRI. However, in this case, we shall not require PSCC to refile since the cost of refiling may outweigh the benefits to consumers. In the future, utilities should file cost support in accordance with our determination herein.

In addition, we note that PSCC has functionalized general plant by plant investment ratios. In *Minnesota Power & Light Co.*, Opinion No. 20, issued August 3, 1978, in Docket Nos. E-9499, et al., we held that general plant should be allocated on the basis of labor ratios. Further, we held that labor ratios should be used in allocating general plant in succeeding cases. In two subsequent orders,[4] we indicated that the use of labor ratios in functionalizing general plant was a "general rule" and held that the burden on the applicant was "to show that the labor ratios are unreasonable as applied to the company, not merely that its alternative method might be reasonable." PSCC bears this same burden in the instant case.

not merely that PSCC's alternative method might be reasonable. *Pennsylvania Electric Co.*, Docket No. ER78-494 (Order issued September 27, 1978); *Public Service Co. of Indiana*, Docket No. ER78-513, (Order issued August 25, 1978).

Our review indicates that the rates filed by PSCC have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Therefore, we shall accept for filing the submittals in this docket, except for those parts summarily disposed of, supra, and suspend same for 4 months to become effective February 5, 1979, subject to refund.

We find that participation by the petitioners in this proceeding may be in the public interest. Accordingly, the Commission will grant the Petitioners' intervention pursuant to § 1.8(d) of the Commission's Rules of Practice and Procedure.

The Commission orders: (A) 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 the Public Service Co. of Colorado in this proceeding.

(B) Pending such hearing and decision thereon, the rates proposed by Public Service Co. of Colorado are hereby accepted for filing and suspended for 4 months, to become effective as of February 5, 1979, subject to refund.

(C) The Federal Energy Regulatory Commission staff shall prepare and serve top sheets on all parties on or before January 27, 1979.

(D) All petitioners are permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission; *Provided, however,* That participation by these intervenors shall be limited to matters set forth in their respective petitions to intervene; and *Provided, further,* That the admission of these intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders of the Commission in this proceeding.

(E) A presiding administrative law judge to be desingated by the Chief Administrative Law Judge for that purpose shall convene a conference in this proceeding to be held within ten (10) days after 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 all 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.

(F) 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—PUBLIC SERVICE CO. OF COLORADO RATE SCHEDULE DESIGNATIONS

Filing date: September 5, 1978.
Dated: Undated.
Other parties: wholesale customers, as indicated.
Index code: F.

DESIGNATION AND DESCRIPTION
City of Aspen, Colo.
Supplement No. 7 to rate schedule FPC No. 3 (supersedes supp. No. 6)—Schedule of rates for service.
Supplement No. 1 to supplement No. 7 to rate schedule FPC No. 3 (redesignation of supp. No. 1 to supp. No. 6)—Fuel cost adjustment clause.
Town of Lyons, Colo.
Supplement No. 7 to rate schedule FPC No. 6 (supersedes supp. No. 6)—Schedule of rates for service.
Supplement No. 1 to supplement No. 7 to rate schedule FPC No. 6 (redesignation of supp. No. 1 to supp. No. 6)—Fuel cost adjustment clause.

[1] By letter dated August 14, 1978, Public Service Co. of Colorado (PSCC) was apprised that the filing of July 24, 1978, had been assessed deficient. On September 5, 1978, PSCC filed additional information curing the deficiency.

[2] See Attachment A for Rate Schedule Designations.

[3] See also *Connecticut Light & Power Co.*, Docket No. ER77-517 (Order issued August 31, 1978).

[4] Pennsylvania Electric Co., Docket No. ER78-494 (Order issued September 27, 1978); *Public Service Co. of Indiana*, Docket No. ER78-513, (Order issued August 25, 1978).

Home Light & Power Co.

Supplement No. 11 to rate schedule FPC No. 9 (supersedes supp. No. 10)—Schedule of rates for service.
Supplement No. 1 to supplement No. 11 to rate schedule FPC No. 9 (redesignation of supp. No. 1 to supp. No. 10)—Fuel cost adjustment clause.

City of Glenwood Springs, Colo.

Supplement No. 6 to rate schedule FPC No. 11 (supersedes supp. No. 5)—Schedule of rates for service.
Supplement No. 1 to supplement No. 6 to rate schedule FPC No. 11 (redesignation of supp. No. 1 to supp. No. 5)—Fuel cost adjustment clause.

Colorado-Ute Electric Association, Inc.

Supplement No. 12 to rate schedule FPC No. 12 (supersedes supp. No. 11)—Schedule of rates for service. (including transmission agreement).
Supplement No. 1 to supplement No. 12 to rate schedule FPC No. 12 (redesignation of supp. No. 1 to supp. No. 11)—Fuel cost adjustment clause.

Central Telephone & Utilities Corp. (Southern Colorado Power Division)

Supplement No. 7 to rate schedule FPC No. 13 (supersedes supp. No. 6)—Schedule of rates for service.
Supplement No. 1 to supplement No. 7 to rate schedule FPC No. 13 (redesignation of supp. No. 1 to supp. No. 6)—Fuel cost adjustment clause.

Intermountain Rural Electric Association

Supplement No. 6 to rate schedule FPC No. 14 (supersedes supp. No. 5)—Schedule of rates for service.
Supplement No. 1 to supplement No. 6 to rate schedule FPC No. 14 (redesignation of supp. No. 1 to supp. No. 5)—Fuel cost adjustment clause.

City of Burlington, Colo.

Supplement No. 6 to rate schedule FPC No. 15 (supersedes supp. No. 5)—Schedule of rates for service.
Supplement No. 1 to supplement No. 6 to rate schedule FPC No. 15 (redesignation of supp. No. 1 to supp. No. 5)—Fuel cost adjustment clause.

Town of Center, Colo.

Supplement No. 2 to rate schedule FPC No. 17—Schedule of rates for service.
Supplement No. 1 to supplement No. 2 to rate schedule FPC No. 17 (redesignation of supp. No. 1 to supp. No. 1)—Fuel cost adjustment clause.

[FR Doc. 78-29023 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Docket No. AR61-2, etc.]

SOUTHERN NATURAL GAS

Declaratory Order Requiring Payment of Interest on Refunds

OCTOBER 2, 1978.

Take note that on September 1, 1978, the Alabama Muncipal Distributors Group (MDG) filed with the Commission a petition for Declaratory Order Requiring Payment of Interest on Refunds in the above-referenced dockets. On September 14, 1978, Alabama Gas Corp. joined that petition.

MDG states that Southern Natural Gas Co., Docket Nos. AR61-2, AR67-1 & AR69-1, *et al.*, G-13258, G-18512, G-20509 & RP60-15, RP64-31, RP70-5 & RP70-16, RP70-38, *et al.*, and RP72-91, *et al.*, has had in its posession certain producer refund dollars for varying periods of time and has refunded to its customers only the amounts actually received by Southern (including in some instances principal and interest for certain producer's refunds). MDG further states that Southern has not refunded to its customers any interest for the various periods during which Southern has held the producer refunds. MDG further states that Southern is obligated to include interest for the period of time it held the producer refunds and should be required to make a refund of this interest to its customers.

Any person desiring to be heard or to protest said filing should file a petition to intervene or comments with the Federal Energy Regulatory Commission, 825 North Capital 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 comments should be filed on or before October 23, 1978. Comments 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. 78-28997 Filed 10-12-78; 8:45 am]

[6740-02]

[Docket No. CI78-1009]

SUN OIL CO.

Application for Certificate Pursuant to Optional Procedure

OCTOBER 3, 1978.

Take notice that on July 17, 1978, Sun Oil Co. (Sun), P.O. Box 20, Dallas, Tex. 75221, filed an application for a certificate of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act, and 18 CFR 2.75 (optional procedure).

Sun requests an initial rate of $3.21/Mcf plus 4 percent annual escalations for sales of its natural gas from High Island Blocks A-327 and A-332, offshore Texas to Trunkline Gas Co. (Trunkline). Sun calculates the average requested price for the life of the reserves (adjusted for a 3 month delay in price relief) to equal $3.51/Mcf, inclusive of a 17 percent rate of return. Sun estimates it will sell 23.5 Bcf of reserves to Trunkline over the 12 year life of the subject reserves.

The subject gas sale contracts contain depth limitation clauses and area rate clauses. Sun "conditionally" waives its area rate clause, pursuant to the requirements of 18 CFR 2.75(f). Sun owns 18.5 percent of the working interest in each of the 2 blocks, and Pennzoil Louisiana and Texas Offshore (Plato), Pennzoil Oil and Gas, Inc. (POGI) and Pogo Producing Co. (Pogo) together own 13 percent of the working interests of the blocks. Plato has filed for an optional procedure rate for these two blocks, inter alia, in Docket No. CI78-767 on May 17, 1978.

Any person desiring to be heard or to make any protest with reference to said petition should on or before October 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). 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 protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-28998 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Docket No. RP73-114]

TENNESSEE GAS PIPELINE CO., A DIVISION OF TENNECO INC.

Refund Report

OCTOBER 2, 1978.

Take notice that on September 25, 1978, Tennessee Gas Pipeline Co., a Division of Tenneco Inc. (Tennessee), filed a plan for disposition of refunds which it received from Sea Robin Pipeline Co. in Docket No. RP77-6.

Tennessee states that upon Commission approval of its refund plan it will flow through to its customers the entire $499,265.83 which is received by means of a credit to its Unrecovered Purchased Gas Cost Account.

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 October 13, 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. 78-28999 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Docket No. RI78-90]

TIPPERARY OIL & GAS CORP.

Petition for Special Relief

OCTOBER 4, 1978.

Take notice that on September 5, 1978, Tipperary Oil & Gas Corp., 500 West Illinois, P.O. Box 3179, Midland, Tex. 79702 (Petitioner) filed a petition for special relief from the pricing provisions of FPC Opinion No. 770-A, issued November 5, 1976, with regard to the Calf Canyon Unit, Garfield County, Colo. Petitioner requests that $1.50 per Mcf be added to the applicable FERC regulated price and paid to the working interest owner (Petitioner) in order to permit an equitable return on a proposed gathering system that would serve the Calf Canyon Unit. Petitioner states that the applicable wellhead natural gas prices, to which the $1.50 rate would be added, vary from $0.697 to $1.20 per Mcf. The purchaser of the gas is identified as Northwest Pipeline Corp., P.O. Box 15267, Salt Lake City, Utah 84110. Petitioner also states that seven Calf Canyon Unit wells have been drilled to date, with one more planned during 1978.

Any person desiring to be heard or to make any protest with reference to said petition should on or before October 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). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29000 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Docket No. CP 78-541]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Application

OCTOBER 5, 1978.

Take notice that on September 27, 1978, Transcontinental Gas Pipe Line Corp. (Applicant), P.O. Box 1396, Houston, Tex. 77001, filed in Docket No. CP78-541 an application pursuant to Section 7(c) of the Natural Gas Act and § 157.7(b) of the Regulations thereunder (8 CFR 157.7(b)) for a certificate of public convenience and necessity authorizing the constuction, during the 12-month period commencing October 22, 1978, and operation of facilities to enable Applicant to take into its certificated main pipeline system natural gas which would be purchased from producers or other similar sellers thereof, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in connecting to its pipeline system supplies of natural gas which may become available from various producing areas generally coextensive with its pipeline system or the system of other pipeline companies which may be authorized to transport gas for the account of or exchange gas with Applicant.

Applicant states that the total estimated cost of the proposed facilities would not exceed $12,000,000, with the cost of no single offshore projects to exceed $2,500,000 and the cost of no single onshore project to exceed $1,500,000. Applicant indicates that the cost of the proposed facilities would be financed initially from temporary bank loans and company funds, with permanent financing to be arranged as part of an overall financing program.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 27, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intevene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules and Practice and Procedure, a hearing will be held without further notice before the Commission or its designee 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 unncessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-29028 Filed 10-12-78; 8:45]

[6740-02-M]

[Docket No. CP78-536]

TRUNKLINE GAS CO.

Application

OCTOBER 5, 1978.

Take notice that on September 25, 1978, Trunkline Gas Co. (Applicant), P.O. Box 1642, Houston, Tex. 77001, filed in Docket No. CP78-536 an application pursuant to section 7(c) of the Natural Gas Act and § 157.7(b) of the regulations thereunder (18 CFR 157.7(b)) for a certificate of public convenience and necessity authorizing the construction during the 12-month period commencing upon the date of issuance of the requested certificate, and operation of certain natural gas purchase facilities, to enable Applicant to take into its certificated main pipeline system natural gas which would be purchased or received from producers or other similar sellers, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to take into its certificated mainline pipeline system such natu-

ral gas which is or may become available due to expansion, development or production of existing or new sources of supply in the general area of its system or to connect such gas to the system of another natural gas company authorized to transport for or exchange with Applicant such gas.

Applicant states that the total cost of the proposed facilities would not exceed $10 million, with no single onshore project to exceed $1,500,000 and no single offshore project to exceed $2,500,000. Applicant states that the proposed facilities would be financed from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 27, 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 herein 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 or its designee 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. 78-29029 Filed 10-12-78; 8:45 am]

[6740-02-M]

[Docket No. RA78-5]

YOUNG REFINING CORP.

Notice Granting Extension of Time

OCTOBER 2, 1978.

On September 22, 1978, Counsel for the Secretary of Energy filed a motion for extension of time within which to file the administrative record and reply to petition for review in the above captioned proceeding. The motion noted belated service of the petition for review upon the Secretary.

Upon consideration, notice is hereby given that an extension of time is granted to and including October 23, 1978, for the filing of the administrative record and reply to petition for review in this proceeding.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-29030 Filed 10-12-78; 8:45 am]

[3128-01-M]

Office of Hearings and Appeals

NATURAL GAS PLANT OPERATORS

Applications for Exception; Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of Departmental Determinations with Respect to Amendments to 10 CFR, Part 212, Subpart K, 43 FR 42984 (Sept. 21, 1978).

SUMMARY: The Office of Hearings and Appeals of the Department of Energy (DOE) hereby gives notice of the procedures which it has adopted and will follow with respect to Applications for Exception from 10 CFR, Part 212, Subpart K. The DOE adopted amendments to those regulations effective November 1, 1978, concerning nonproduct cost passthroughs for natural gas plant operators. 43 FR 42984 (Sept. 21, 1978). The parties affected by this Notice include operators of approximately 350 gas plants whose current exception relief expires after November 1, 1978; 20 firms which have filed initial applications for exception relief; 20 firms to whom Proposed Decisions and Orders have been issued; 9 firms who have objections outstanding to Proposed Decisions and Orders; and approximately 47 firms which have applied for extensions of previous exception relief.

FOR FURTHER INFORMATION CONTACT:

Thomas L. Wieker, Deputy Director, Office of Hearings and Appeals, 2000 M Street NW., Room 8014 Washington, D.C. 20461 202-254-9681.

SUPPLEMENTARY INFORMATION: The Department of Energy has adopted amendments to 10 CFR, Part 212, Subpart K, which govern the prices at which natural gas liquids (NGLs) and natural gas liquid products (NGLPs) may be sold. See 43 FR 42984 (Sept. 21, 1978). These regulatory amendments, which will become effective on November 1, 1978, permit natural gas plant operators to pass through certain of their increased nonproduct costs relating to the processing and marketing of NGL's and NGLP's.

Under the provisions of §212.165 of Subpart K which existed prior to the September 21 modifications and which will remain in effect until November 1, 1978, natural gas plant operators have been permitted to increase the prices of NGL's and NGLP's to reflect certain increased nonproduct costs, up to $0.005 per gallon for NGLPs and $0.00375 for NGL's. In a preamble to the rulemaking proceeding in which the original Subpart K was promulgated, the Federal Energy Administration recognized that some natural gas plant operators could experience inequities as a result of the regulatory limitations on cost passthroughs. Accordingly, the FEA indicated that:

> Any firms that have increased nonproduct costs of gas processing that would justify a greater price increse than 0.5 cents per gallon may request permission to charge higher prices, on a case-by-case basis through the exceptions process.

39 FR 44407 (Dec. 24, 1974).

On May 28, 1975, the Superior Oil Co. filed an Application for Exception in which it stated that it had incurred increased nonproduct costs since May 15, 1973 at four of its natural gas processing plants. According to Superior, those increases ranged from $0.009 per gallon to $0.032 per gallon. The firm claimed that its inability to increase its selling prices to reflect these increased nonproduct costs constituted a gross inequity. In reviewing that contention, the FEA found that:

> No public purpose will be served by prohibiting natural gas processors which have incurred nonproduct cost increases substantially in excess of $0.005 per gallon from passing through these cost increases.

Superior Oil Co., 2 FEA Par. 83,271 (Aug. 29, 1975).

The FEA noted that exception relief to allow the passthrough of those costs would prevent continued inequitable treatment of natural gas plant operators and could also provide an incentive for those firms to increase their production to alleviate the nationwide shortage of NGL's. Therefore, the FEA granted exception relief to Superior, permitting the firm to increase its selling prices to reflect the increased nonproduct costs which it had incurred. In addition, the FEA stated that it would, as a general rule:

[G]rant exception relief to any gas processing plant which can demonstrate that its nonproduct costs, since May 1973, have increased substantially in excess of the $0.005 per gallon passthrough permitted under the provisions of § 212.165.

Id. at p. 83,865.

Following the issuance of the *Superior* decision, the FEA Office of Exceptions and Appeals and its successor, the DOE Office of Hearings and Appeals, have received numerous requests for exception relief involving hundreds of natural gas processing plants. The general practice of the Office of Hearings and Appeals with regard to those requests has been to grant exception relief from the provisions of § 212.165 to any natural gas plant operator which can demonstrate that its nonproduct unit cost increase is materially in excess of the passthrough permitted under the regulations.

However, after the November 1, 1978 effective date of the amendments to the Subpart K regulations, natural gas plant operators will be authorized to pass through the allowable nonproduct cost increases specified in § 212.165 without a dollar limitation. In contrast to the existing version of Subpart K, the amendments specify in detail the allowable categories of nonproduct costs. In addition, the new regulations set forth the general accounting procedures to be used and indicate the principles for specific costs such as extraordinary and irregular nonrecurring expense items and processing costs that are deemed to be incurred by a firm. The amended version of § 212.166 describes in detail the method of recovering increased marketing costs. Finally, a news § 212.169 has been added which sets forth provisions regarding the methods for carrying forward unrecovered increased costs and for correcting overrecoveries of such costs (the "banking" provisions).

Since natural gas plant operators will be permitted after November 1, 1978 to pass through certain increased nonproduct costs without a dollar limitation, we believe that the need for those firms to continue to apply for exception relief under the *Superior* precedent on a plant-by-plant basis will be eliminated. In order to facilitate the transition from a case-by-case exception process to a self administered regulatory system, the Office of Hearings and Appeals has taken a number of steps that will affect those firms which have previously been granted exception relief or which have filed applications for exception relief from the former provisions of Subpart K. The remainder of this Notice describes the procedures which the Office of Hearings and Appeals has adopted and expects to follow in processing pending exception applications and providing administrative relief during the transitional period prior to November 1 in those situations in which a firm has been granted exception relief.

Firms With Exception Relief in Effect After November 1

The DOE has granted exception relief with respect to approximately 350 natural gas plants which will expire, under the terms of the respective orders, after the November 1, 1978 effective date of the new Subpart K regulations. In anticipation of the adoption of amendments to Subpart K, each Decision and Order included the following ordering paragraph:

If § 212.165 which specifies the limitation on the passthrough of nonproduct cost increases is amended subsequent to the effective date of this Order or if the applicant alters its operations at any of its plants to produce natural gas liquid products rather than natural gas liquids, then the exception relief granted above shall be reduced by any excess of (i) the average limitation on the passthrough of nonproduct cost increases, which the firm is required under § 212.165 of the DOE regulations to utilize for the plant concerned in calculating its allowable nonproduct cost increase during the period for which the relief provided in this Order is effective, over (ii) the level of increased nonproduct cost passthroughs under § 212.165 for that natural gas processing plant which was utilized to calculate the level of exception relief in this Order.

In those cases in which the level of exception relief on a per unit basis is less than the level of passthrough permitted under the revised regulations, the exception relief will be automatically reduced to zero by the provision quoted above. The firms involved may of course increase their prices to the full extent permitted under the new regulations. However, it is possible that a small number of firms will actually incur a lower level of increased nonproduct costs at certain plants following November 1 than they were authorized to pass through under the terms of exception decisions. Those firms would continue to set prices on the basis of the level of exception relief specified in the Decision and Order issued to them. The amount of exception relief specified would constitute the total amount of nonproduct cost passthrough permitted for the period of relief.

Pending Applications for Exception

Approximately twenty firms have filed initial applications for prospective relief under the *Superior Oil* precedent. The Office of Hearings and Appeals has dismissed the applications without prejudice to a refiling. The rationale for the dismissals was that the full passthrough of nonproduct cost increases will be available under the new regulations following November 1, 1978. Consequently, exception relief will no longer be necessary after that date.

In addition, one firm has filed an application for retroactive exception relief from the former version of Subpart K. See *Estates of Inez and Loyce Phillips*, Case No. DEE-0319 (D.O.E. filed November 25, 1977). This application will be processed in the course of the normal review process administered by the Office of Hearings and Appeals.

Pending Proposed Decisions and Orders

From July 24 through August 22, 1978, the Office of Hearings and Appeals issued twenty Proposed Decisions and Orders, involving 51 natural gas processing plants, concerning requests for exception relief from the existing nonproduct cost passthrough ceilings. With respect to those Proposed Decisions and Orders for which no Notice of Objection has been filed, the Office of Hearings and Appeals has determined that the exception relief specified in those Proposed Decisions will be granted in final form. See e.g., *Allied Chemical Company*, 2 DOE Par. (September 29, 1978). As indicated in that determination, the exception relief will expire on October 31, 1978, instead of continuing in effect throughout the normal 6-month period. This result will provide exception relief to this class of affected firms until the regulatory changes take effect on November 1, 1978. Once the amended regulations are effective, however, nonproduct cost increases will be passed through in accordance with the new regulatory provisions.

Objections to Proposed Decisions and Orders have been received from 9 firms, involving 22 gas plants. Those Objections will be reviewed in accordance with the normal adjudicatory procedures, and determinations will be issued to those applicants in final form.

Pending Applications for Extension of Exception Relief

The Office of Hearings and Appeals has received applications for extension of exception relief from approximately 47 firms, involving 301 gas plants. Each of those firms was previously granted exception relief which expires on or before September 30, 1978. On October 2, 1978, the DOE issued a Proposed Decision and Order granting each firm an extension of exception relief for the period October 1 through October 31, 1978. *Allied Chemical Corporation, et al.*, Cases Nos. DXE-1561, *et al.*, Proposed Decision and Order (D.O.E. October 2, 1978). The passthrough allowed under the Proposed Decision and Order is

equal in amount to the exception relief most recently granted for each gas plant by the Office of Hearings and Appeals.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-332, Pub. L. 94-385, Pub. L. 95 70, Pub. L. 95-91; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385, Pub. L. 95-70; Energy Conservation and Production Act, Pub. L. 94-385, as amended, Pub. L. 95-70, Pub. L. 95 91; Department of Energy Organization Act Pub. L. 95-91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267.)

Issued in Washington, D.C., October 6, 1978.

MELVIN GOLDSTEIN,
Director,
Office of Hearings and Appeals.

[FR Doc. 78-29064 filed 10-12-78; 8:45 am]

[3128-01-M]

OFFICE OF HEARINGS AND APPEALS

Issuance of Proposed Decisions and Orders; September 18 through September 22, 1978

Notice is hereby given that during the period September 18 through September 22, 1978, the proposed decisions and orders which are summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to applications for exception which had been filed with that Office.

Amendments to the DOE's procedural regulations, 10 CFR, Part 205, were issued in proposed form on September 14, 1977 (42 FR 47210 (September 20, 1977)), and are currently being implemented on an interim basis. Under the new procedures any person who will be aggrieved by the issuance of the proposed decision and order in final form may file a written notice of objection within 10 days of service. For purposes of the new procedures, the date of service of notice shall be deemed to be the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The new procedures also specify that if a notice of objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the proposed decision and order in final form. Any aggrieved party that wishes to contest any finding or conclusion contained in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In that statement of objections an aggrieved party must specify each issue of fact or law contained in the proposed decision and order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1 p.m. and 5 p.m., e.d.t., except Federal holidays.

Dated: October 5, 1978.

MELVIN GOLDSTEIN,
Director,
Office of Hearings and Appeals.

PROPOSED DECISIONS AND ORDERS

Aminoil U.S.A., Inc., Washington, D.C., DEE-1432, crude oil.

Aminoil U.S.A., Inc. filed an application for exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit Aminoil to sell the crude oil produced for the benefit of the working interest owners from the lower main zone at upper tier ceiling prices. On September 20, 1978, the DOE issued a proposed decision and order which determined that the exception request be granted.

Charter Oil Co., Jacksonville, Fla., DXE-1398, crude oil.

Charter Oil Co. filed an application for exception from the provisions of 10 CFR 211.67 (the domestic crude oil entitlements program). The exception request, if granted, would relieve Charter of its obligation to purchase entitlements pursuant to the provisions of 10 CFR 211.67. On September 22, 1978, the DOE issued a proposed decision and order which determined that the exception request be granted.

Custer Gas Service, Custer, S. Dak., DEE-1077, propane.

Custer Gas Service filed an application for exception from the provisions of 10 CFR 212.93. The exception request, if granted, would relieve the firm of its obligation to refund revenues which it obtained by charging prices for propane that exceeded maximum permissible prices. On September 22, 1978, the DOE issued a proposed decision and order which determined that the exception request be denied.

DeMenno Resources, Los Angeles, Calif., DEE-0965, crude oil.

DeMenno Resources filed an application for exception from the provisions of 10 CFR 211.67 (the domestic crude oil entitlements program). The exception request, if granted, would relieve DeMenno of its obligation to purchase entitlements pursuant to the provisions of 10 CFR 211.67. On September 18, 1978, the DOE issued a proposed decision and order which determined that the exception request be denied.

Getty Oil Co., Los Angeles, Calif., DEE-1377 through DEE-1381, crude oil.

Getty Oil Co. filed five applications for exception from the provisions of 10 CFR, Part 212, Subpart D. The exception requests, if granted, would permit the firm to sell the crude oil produced from five leases in the Zaca Field located near Santa Maria, Calif., at prices in excess of the levels set forth in 10 CFR, Part 212, Subpart D. On September 22, 1978, the DOE issued a proposed decision and order in which it determined that exception relief should be granted in part for the five leases.

Kewanee Oil Co., Tulsa, Okla., DXE-1288, crude oil.

Kewanee Oil Co. filed an application for exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in the extension of exception relief previously granted to Kewanee and would permit the firm to sell at upper tier ceiling prices certain quantities of crude oil produced from the South Stanley Lease located in Burbank Field, Osage County, Okla. On September 19, 1978, the DOE issued a proposed decision and order which determined that the exception request be granted in part.

Little America Refining Co., Washington, D.C., DXE-1465, crude oil.

Little America Refining Co. filed an application for exception from the provisions of 10 CFR 211.67 (the domestic crude oil entitlements program). The exception request, if granted, would relieve Little America of its obligation to purchase entitlements pursuant to the provisions of 10 CFR 211.67. On September 22, 1978, the DOE issued a proposed decision and order which determined that the exception request be granted in part.

Newhall Refining Co., Inc., Dallas, Tex., DXE-1322, crude oil.

Newhall Refining Co., Inc. filed an application for exception from the provisions of 10 CFR 211.67 (the domestic crude oil entitlements program). The exception request, if granted, would relieve Newhall of its obligation to purchase entitlements pursuant to the provisions of 10 CFR 211.67. On September 22, 1978, the DOE issued a proposed decision and order which determined that the exception request be denied.

P & M Petroleum Management, Denver, Colo., DXE-1606, crude oil.

P & M Petroleum Management filed an application for exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in the extension of exception relief previously granted to P & M and would permit the firm to sell at upper tier ceiling prices certain quantities of crude oil produced from the track lease located in the Tule Creek South Field in Roosevelt County, Mont. On September 22, 1978, the DOE issued a proposed decision and order which determined that the exception request be granted in part.

Pierremont Petroleum Corp., Scott County, Miss., DEE-1429, crude oil.

On July 20, 1978, the Pierremont Petroleum Corp. filed an application for exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to sell crude oil produced from the C. G. Henderson 17-8 No. 1 well at upper tier ceiling prices. On September 20, 1978, the DOE issued a proposed decision and order which determined that the exception request be granted in part.

Sidney E. Pinkston, Jr., Natchez, Miss., DEE-1409, crude oil.

Sidney E. Pinkston, Jr. filed an Application for exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to sell the crude oil produced from the U.S.A. No. 1, U.S.A. No. 5 and U.S.A. No. 7 wells located on lease BLM-A-011586-C in the Beaver Branch Field of Adams County, Miss. at upper tier ceiling price levels. On September 20, 1978 the DOE issued a proposed decision and order which determined that the exception request be granted.

S & W Engine Supply Co., Oklahoma City, Okla., DXE-1472, crude oil.

The S & W Engine Supply Co. filed an application for exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in the extension of exception relief previously granted and would permit S & W to continue to sell certain quantities of the crude oil which it produces from the Baker Townsend Lease at upper tier ceiling prices. On September 18, 1978, the Department of Energy issued a proposed decision and order which determined that the exception request be granted.

Tenneco Oil Co., Houston, Tex., DEE-1557, crude oil.

Tenneco Oil Co. filed an application for exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to continue to sell certain quantities of the crude oil produced from the south coast unit, located in St. Mary Parish, La., at upper tier ceiling prices. On September 20, 1978, the DOE issued a proposed decision and order which determined that the Tenneco exception request be granted.

[FR Doc. 78-28900 Filed 10-12-78; 8:45 am]

[3128-01-M]

OFFICE OF HEARINGS AND APPEALS

Case Filed Week of September 22 through September 29, 1978

Notice is hereby given that during the week of September 22 through September 29, 1978, the appeals and applications for exception or other relief listed in the appendix to this notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under the DOE's procedural regulations, 10 CFR, part 205, any person who will be aggrieved by the DOE action sought in this case may file with the DOE written comments on the application within 10 days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this notice or the date receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

MELVIN GOLDSTEIN,
Director,
Office of Hearings and Appeals.

OCTOBER 5, 1978.

APPENDIX.—*List of Cases Received by the Office of Hearings and Appeals*

[Week of Sept. 22 through Sept. 29, 1978]

Date	Name and location of applicant	Case No.	Type of submission
Sept. 22, 1978	Kenr, Houston, Tex	DFA-0221	Appeal of an information request denial. If granted: The Aug. 18, 1978 information request denial would be rescinded and KENR would receive access to certain DOE data concerning Tauber Oil Co.
Do	Sun Co., Inc., Dallas, Tex	DXE-1869	Extension of the relief granted in *Sun Company, Inc.*, case No. FXE-4784 (decided June 5, 1978) (unreported decision). If granted: The applicant would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its Pledger plant.
Do	....do	DEE-1881 through DEE-1885.	Price exception (sec. 212.165). If granted: Sun Co., Inc. would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the Dragon Trail, Levelland, Okeene, Star Lacey, and Womack plants.
Sept. 26, 1978	Coastal States Gas Corp., Houston, Tex	DXE-1893	Extension of the relief granted in *Coastal States Gas Corp.*, case No. DXE-0458 (decided July 6, 1978) (unreported decision). If granted: Coastal States Gas Corp. would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its Lakin plant.
Do	Continental Oil Co., Houston, Tex	DEE-1889	Price exception (sec. 212.83). If granted: Continental Oil Co. would be permitted to adjust its May 1973 marketing cost base to reflect its subsequent divestiture of motor gasoline marketing facilities.
Do	Craft Petroleum Co., Inc., Jackson, Miss	DEE-1886	Price exception (sec. 212.73). If granted: Craft Petroleum Co., Inc. would be permitted to sell the crude oil produced from the Rosenblatt No. 1 well located in Wilkinson County, Miss., at upper tier ceiling prices.
Do	Econ-O-Gas, Inc., Temple, Tex	DSG-0031	Request for special redress. If granted: The Office of Hearings and Appeals would review the Nov. 22, 1976 assignment order, the three-party agreement submitted for Econ-O-Gas, Inc., Atlantic Richfield Co., and Foremost Petroleum Corp., and the Dec. 22, 1976 termination order to assess their compliance with the requirements of due process.
Do	Gulf Oil Corp., Tulsa, Okla	DEE-1894 through DEE-1902.	Price exception (sec. 212.165). If granted Gulf Oil Corp. would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the Diamond "M", Gulf Venice, McLean, Okeene, Seiling, Slaughter, Thompson, Wright, and Yowlumne plants.
Do	McAfee, Taft, Mark, Bond, Rucks & Woodruff, Oklahoma City, Okla.	DFA-0222	Appeal of information request denial. If granted: The information request denial of Sept. 6, 1978, would be rescinded and McAfee, Taft would be granted access to copies of transcripts of interviews regarding a notice of probable violation issued to Unit Operations, Inc.
Do	Natrogas, Inc., Minneapolis, Minn	DEE-1887	Exception to change suppliers. If granted: Natrogas, Inc. would be assigned a new, lower-priced supplier of propane to replace its base period suppliers, Shell Oil Co., Mobil Oil Corp., and Warren Petroleum.
Do	New England Power Co., Houston, Tex	DRD-0113	Motion for discovery. If granted: Discovery would be granted to New England Power Co. with respect to its statement of objections to a proposed remedial order issued by the Office of Special Counsel for Compliance to Coastal States Gas Corp. on Sept. 6, 1978.
Do	Phillips Petroleum Co., Bartlesville, Okla	DEE-1888	Price exception (sec. 212.73). If granted: Phillips Petroleum Co. would be permitted to sell the crude oil produced from the Evelyn "A" lease located in Converse County, Wyo., at upper tier ceiling prices.
Do	Robert B. Sutton, Tulsa, Okla	DSG-0032 and DES-0104.	Request for special redress. Request for stay. If granted: The Office of Hearings and Appeals would review the Aug. 31, 1978 denial of the application to quash a subpena submitted by Rober B. Sutton and compliance with the subpena would be stayed pending a determination of his request for special redress.

APPENDIX.—*List of Cases Received by the Office of Hearings and Appeals*—Continued

[Week of Sept. 22 through Sept. 29, 1978]

Date	Name and location of applicant	Case No.	Type of submission
Do	Texas City Refining, Inc., Washington, D.C.	DSG-0033	Request for special redress. If granted: Texas City Refining, Inc. would receive a stay of its entitlement purchase obligations for the period September through November 1978.
Sept. 27, 1978	Dunaway, McCarthy & Dye, Washington, D.C.	DFA-0223	Appeal of an information request denial. If granted: The information request denials of Aug. 21 and Aug. 30, 1978, would be rescinded and Dunaway, McCarthy & Dye would be granted access to certain DOE material relating to the applicability of the mandatory petroleum allocation and price regulations (10 CFR pts. 221 and 212) to the sale of covered products under future contracts.
Do	Edgington Oil Co., Inc., Washington, D.C	DXE-1890	Extension of the relief granted in *Edgington Oil Co., Inc.*, 2 DOE par. — (Aug. 16, 1978). If granted: Edgington Oil Co., Inc. would receive an exception from the provisions of 10 CFR 211.67 with respect to its entitlement purchase obligations.
Do	Northland Oil & Refining Co., Tulsa, Okla.	DEE-1892	Exception to the entitlements program. If granted: Northland Oil & Refining Co. would receive an exception from the provisions of 10 CFR 211.67 with respect to the firm's entitlement purchase obligation for the period July through December 1978.
Do	Warrior Asphalt Co. of Alabama, Washington, D.C.	DXE-1891	Extension of the relief granted in *Warrior Oil Co. of Alabama*, 2 DOE par. — (July 20, 1978). If granted: Warrior Asphalt Co. of Alabama would receive an exception from the provisions of 10 CFR 211.67 with respect to its entitlement purchase obligations.
Sept. 28, 1978	Advanced Sales Corp., St. Petersburg, Fla.	DFA-0224	Appeal of an information request denial. If granted: The Sept. 1, 1978 information request denial would be rescinded and Advanced Sales Corp. would receive access to certain DOE data regarding orders issued by DOE region IV on Apr. 5 and July 12, 1974.
Sept. 29, 1978	Baltimore Gas & Electric Co., Baltimore, Md.	DEA-0225	Appeal of an ERA order. If granted: The Aug. 24, 1978 decision and order would be rescinded and Baltimore Gas & Electric Co. would be assigned a base period volume and use authorization of propaned for possible Btu enrichment.
Do	Mobil Oil Corp., New York, N.Y	DRH-0105 and DRD-0105.	Request for evidentiary hearing and motion for discovery. If granted: An evidentiary hearing would be conveved in connection with Mobil Oil Corp.'s statement of objections regarding a proposed remedial order issued to it on Aug. 23, 1978. In addition, Mobil would be authorized to take depositions of Mr. August P. Rossi, Jr. and Mr. Douglas J. Siemer.

Notices of Objection Received

Date	Name and location of applicant	Case No.
Sept. 26, 1978	Damson Oil Corp., Houston, Tex	DXE-1607
Do	Dixie Gas Industries, Inc., Goldenrod, Fla	DEO-0120

Proposed Remedial Orders

Sept. 26, 1978	Raymond Oil Co., Huron, S. Dak	DRO-0118
Do	Lundells, Texas, Alice, Tex	DRO-0119

[FR Doc. 78-28901 Filed 10-12-78; 8:45 am]

[3128-01-M]

OFFICE OF HEARINGS AND APPEALS

Cases Filed Week of September 15, 1978 through September 22, 1978

Notice is hereby given that during the week of September 15, 1978 through September 22, 1978, the appeals and applications for exception or other relief listed in the appendix to this notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under the DOE's procedural regulations, 10 CFR, part 205, any person who will be aggrieved by the DOE action sought in such cases may file with the DOE written comments on the application within 10 days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

MELVIN GOLDSTEIN,
Director,
Office of Hearings and Appeals.

SEPTEMBER 28, 1978.

APPENDIX.—*List of Cases Received by the Office of Hearings and Appeals*

[Week of Sept. 15, 1978 through Sept. 22, 1978]

Date	Name and location of applicant	Case No.	Type of Submission
Sept. 15, 1978	Graham-Michaelis Drilling Co., Wichita, Kans.	DEE-1837	Price exception (sec. 212.165). If granted: Graham-Michaelis Drilling Co. would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the Mooreland plant.
Do	Meason Operating Co., Natchez, Miss	DXE-1836	Extension of relief granted in *Meason Operating Company*, 1 DOE par. 81,038 (Dec. 14, 1977). If granted: Meason Operating Co. would be permitted to sell crude oil produced from the Arnold Perry unit No. 1, East Kelly field located in Wilkinson County, Miss., at upper tier ceiling prices.
Do	Quincy Oil, Inc., Boston, Mass	DED-0447	Motion for discovery. If granted: Quincy Oil, Inc. would be granted discovery with respect to a DOE audit regarding the firm's sales of No. 6 fuel oil and with respect to various DOE administrative proceedings involving the firm.
Do	Tenneco Oil Co., Houston, Tex	DXE-1838 through DXE-1850.	Extension of relief granted in *Tenneco Oil Company*, case Nos. DXE-0874 through DXE-0885 (decided Apr. 20, 1978) and case No. FXE-4738 (decided Nov. 4, 1977) (unreported decisions). If granted: The applicant would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its Chesterville, La Porte, Leabo, Pearce, Stephens, Ward, Dover Hennessey, Lake Bouef, Mayfield, Mermentau, Normanna, Prentice, and South Fullerton plants.
Do	....do	DEE-1851 through DEE-1855.	Price exception (sec. 212.165). If granted: Tenneco Oil Co. would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the Fashing field, Hollywood, Mooreland, Nueces River, and Sea Robin plants.
Sept. 18, 1978	Jimmie Austin d.b.a. Austin Drilling Co., Seminole, Okla.	DRX-0108	Supplemental order. If granted: The appeal procedure specified in the remedial order issued to Austin Drilling Co. on Sept. 14, 1978, would be altered to provide that any party aggrieved by the determination may seek judicial review.
Do	Charter Oil Co., Jacksonville, Fla	DEX-0109	Supplemental order. If granted: Charter Oil Co. would receive a stay of its entitlement purchase obligations.
Do	Energy Consumers & Producers Association, Seminole, Okla.	DEE-1856	Price exception (sec. 212.73). If granted: The Energy Consumers & Producers Association would be permitted to sell the crude oil produced from the Austin Chalk-Buda Trend of South Texas at upper tier ceiling prices.
Do	Gulf Oil Corp., Houston, Tex	DEX-0107	Supplemental order in *Gulf Oil Corp.*, 1 DOE par. 80,227 (Mar. 21, 1978). If granted: The DOE's decision and order in case No. FRA-1423, issued on Mar. 21, 1978, would be rescinded.
Do	Little America Refining Co., Englewood, Colo.	DEX-0110	Supplemental order. If granted: Little America Refining Co. would receive a stay of its entitlement purchase obligations.
Do	Charles Schwartz, Berkeley, Calif	DFA-0214	Appeal of an information request denial. If granted: The DOE's June 23, 1978 information request denial would be rescinded and Charles Schwartz would receive access to certain DOE data relating to the selection of the directors of the Los Alamos Scientific Laboratory and Lawrence Livermore Scientific Laboratory, as well as correspondence regarding enhanced radiation weapons.
Do	True Oil Purchasing Co., Casper, Wyo	DFA-0215	Appeal of an information request denial. If granted: The DOE's information request denial of Aug. 14, 1978, would be rescinded and True Oil Purchasing Co. would be granted access to certain DOE materials relating to the promulgation of 10 CFR, pt. 212, subpt. L (reseller regulations).
Sept. 20, 1978	American Petrofina, Inc., Dallas, Tex	DPI-0020	Appeal of an oil imports order. If granted: The Sept. 15, 1978 order issued by the Office of Oil Imports would be rescinded and American Petrofina would be permitted to import crude oil on a fee-exempt basis during the period May 1, 1978 through Apr. 30, 1979.
Do	City of Long Beach, Calif.	DXE-1870	Extension of relief granted in *City of Long Beach, California*, 1 DOE par. 81,105 (Apr. 11, 1978). If granted: The city of Long Beach would be permitted to sell the crude oil produced from the block III unit located in Los Angeles County, Calif., at upper tier ceiling prices.
Do	Coastal States Gas Co., Houston, Tex	DEE-1863	Price exception (sec. 212.165). If granted: Coastal States Gas Co. would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the Bluebell plant.
Do	Crown Central Petroleum Corp., Bellaire, Tex.	DEE-1872	Price exception (sec. 212.73). If granted: Crown Central Petroleum Corp. would be permitted to sell the crude oil produced from the Santa Ana and Fresno land lease located in Fresno County, Calif., at upper tier ceiling prices.
Do	Exxon Co., U.S.A., Houston, Tex	DFA-0216	Appeal of an information request denial. If granted: The DOE's Aug. 14, 1978 and June 8, 1978 information request denials would be rescinded and Exxon Co., U.S.A. would receive access to certain DOE data regarding the regulation of natural gas liquids and natural gas liquid products.
Do	Geronimo Oil Co., Corpus Christi, Tex	DEE-1873	Price exception (sec. 212.73). If granted: Geronimo Oil Co. would be permitted to sell the crude oil produced from the Lillian S. Morris, et al. lease in San Patricio County, Tex., at upper tier ceiling prices.
Do	Getty Oil Co., Los Angeles, Calif	DRH-0092 and DRD-0092.	Motion for evidentiary hearing; motion for discovery. If granted: An evidentiary hearing would be convened in connection with a statement of objections submitted by Getty Oil Co. to a proposed remedial order issued to the firm by the Office of the Special Counsel on July 20, 1978. In addition, Getty Oil Co. would be granted discovery with respect to the objections it has raised.

APPENDIX.—*List of Cases Received by the Office of Hearings and Appeals*—Continued

[Week of Sept. 15, 1978 through Sept. 22, 1978]

Date	Name and location of applicant	Case No.	Type of Submission
Do	Great Western Drilling Co., Midland, Tex	DEE-1875 and DEE-1876.	Extension of relief granted in *Great Western Drilling Company*, case Nos. FXE-4793 and FXE-4794 (decided Nov. 4, 1978) (unreported decision). If granted: Great Western Drilling Co. would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at the Prentice and West Seminole plants.
Do	Gulf Oil Corp., Tulsa, Okla	DXE-1859	Extension of relief granted in *Gulf Oil Corp.*, 1 DOE par. —— (June 6, 1978). If granted: Gulf Oil Corp. would be permitted to sell the crude oil produced from the Kiefer unit located in Creek County, Okla., at upper tier ceiling prices.
Do	....do	DMR-0032	Request for modification in *Gulf Oil Corp.*, 1 DOE par. —— (June 6, 1978). If granted: The DOE's decision and order in case No. DEE-0612, issued June 6, 1978, would be modified to correct a Gulf error made with respect to the percentage of the working interest reported for its Kiefer unit.
Do	Herlocker Fuel Co., Albermarle, N.C	DEE-1862	Exception to change suppliers. If granted: Herlocker Fuel Co. would be assigned a new, lower priced supplier of fuel oil, kerosene, diesel fuel and gasoline to replace its base period supplier, Mainliner Oil Co.
Do	Hunt Petroleum Corp., Dallas, Tex	DXE-1864	Extension of the relief granted in *Hunt Petroleum Corp.*, case No. DXE-0940 (decided July 7, 1978) (unreported decision). If granted: The applicant would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its Kinder plant.
Do	San Joaquin Refining Co., Newport Beach, Calif.	DES-1049	Stay request. If granted: San Joaquin Refining Co. would be granted a stay of the entitlements purchase obligations which it incurred during July 1978 pending a final determination on its application for exception (case No. DXE-1049).
Do	Sierra Anchor Refining Co., San Marino, Calif.	DEA-0218	Appeal of the entitlements notice for June 1978. If granted: The DOE would increase the inventory adjustments to the entitlements position of the Sierra Anchor Refining co. which were made by the Domestic Crude Oil Allocation Office as reflected in the June 1978 entitlement notice (43 FR 38072 (Aug. 25, 1978)) to account for the firm's startup inventories of crude oil.
Do	Skelton Oil Co., Hobbs, N. Mex	DEE-1861	Price exception (sec. 212.73). If granted: Skelton Oil Co. would be permitted to sell the crude oil produced from the Lowe well No. 1 located in Lea County, N. Mex., at upper tier ceiling prices.
Do	Smith & Boyd, Inc., Philadelphia, Pa	DRA-0217	Appeal of revised remedial order. If granted: The Sept. 5, 1978 revised remedial order issued by DOE region III would be rescinded and Smith & Boyd, Inc. would not be required to refund overcharges made in its sales of No. 2 fuel oil to Philadelphia Electric Co.
Do	Marathon Oil Co., Washington, D.C	DSG-0030, DEH-0030, DED-0030, and DES-0103.	Request for special redress; motion for evidentiary hearing; motion for discovery; stay request. If granted: The Office of Hearings and Appeals would remand the Marathon Oil Co.'s application for review of the deputy special counsel's denial of application to quash subpena to an appropriate DOE official under the provisions of 10 CFR 205.8(h). Marathon would be granted a stay of its application for review pending a determination of its request for special redress. An evidentiary hearing would be convened in connection with the application for review and the firm would also be granted discovery with regard to material facts not previously disclosed to the firm.
Do	Pacific Resources, Inc., Honolulu, Hawaii	DEE-1874	Exception to the entitlements program. If granted: Pacific Resources, Inc. would receive additional entitlements to compensate the firm for the cost of shipping fuel oil from its Hawaii refinery to the east coast.
Do	Placid Refining Co., Washington, D.C	DEE-1857	Exception to the entitlements program. If granted: Placid Refining Co. would receive an exception which would result in the calculation of the entitlements program small refiner bias on a separate firm basis.
Do	Sun Co., Inc., Dallas, Tex	DXE-1865 through DXE-1868.	Extension of relief granted in *Sun Company, Inc.*, case Nos. DXE-0915, DXE-0941, DXE-0918, DXE-0942 (decided Apr. 28, 1978) (unreported decision). If granted: The applicant would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its Canales, Peoria, Spivey, and Sun plants.
Do	Texaco, Inc., White Plains, N.Y	DEE-1858	Price exception (sec. 212.83). If granted: Texaco, Inc. would receive an exception from the provisions of 10 CFR 212.83 with respect to the calculation of its $F_i t$ factor.
Do	Texaco, Inc., New Orleans, La	DXE-1871	Extension of the relief granted in *Texaco, Inc.*, 1 DOE par. 81,129 (May 17, 1978). If granted: Texaco, Inc. would be permitted to sell the crude oil produced from the BF Reno RA Sand unit located in Pointe Coupee Parish, La., at upper tier ceiling prices.
Do	Texas Pacific Oil Co., Inc., Dallas, Tex	DXE-1878 through DXE-1880.	Extension of the relief granted in *Texas Pacific Oil Co.*, case Nos. DXE-0911 through DXE-0913 (decided July 7, 1978) (unreported decision). If granted: Texas Pacific Oil Co., Inc., would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its Adena, Hamlin and South Fullerton plants.
Do	Allen K. Trobaugh, Midland, Tex	DXE-1860	Extension of the relief granted in *Allen K. Trobaugh*, 1 DOE par. 81,116 (Apr. 19, 1978). If granted: Allen K. Trobaugh would be permitted to sell the crude oil produced from the Bailey No. 1 well located in Hockley County, Tex., at upper tier ceiling prices.
Sept. 21, 1978	Southern Union Refining Co., Hobbs, N. Mex.	DEZ-1406	Interlocutory order. If granted: The Office of Hearings and Appeals would issue an interlocutory order clarifying and narrowing the issues which will be considered in an exception proceeding initiated by Southern Union Refining Co. (case No. DEE-1406).
Do	Taylor Oil Co., Sioux Falls, S. Dak	DFA-0219	Appeal of an information request denial. If granted: The DOE's Aug. 16, 1978 information request denial would be rescinded and Taylor Oil Co. would receive access to certain DOE data regarding a DOE audit of its transactions in covered products.

APPENDIX.—*List of Cases Received by the Office of Hearings and Appeals*—Continued

[Week of Sept. 15, 1978 through Sept. 22, 1978]

Date	Name and location of applicant	Case No.	Type of Submission
Sept. 22, 1978	Pennzoil Producing Co., Houston, Tex	DXE-1877	Extension of relief granted in *Pennzoil Producing Company*, 1 DOE par. 81,134 (May 15, 1978). If granted: Pennzoil Producing Co. would be permitted to continue to sell the crude produced from the Perry Sand Waterflood unit—north segment at upper tier celing prices.
Do	Trends Publishing, Inc., Washington, D.C	DFA-0220	Appeal of an information request denial. If granted: The DOE's June 16, 1978 information request denial would be rescinded and Trends Publishing, Inc. would receive access to certain DOE data concerning the Nuclear Materials & Equipment Corp.

Notices of Objection Received

Date	Name and location of applicant	Case No.
Sept. 15, 1978	Crest Resources & Exploration Co., Houston, Tex	DEE-0944
Do	E. B. Brooks, Jr., Dallas, Tex	DEE-0154
Sept. 20, 1978	Williams Oil Co., Inc., Newport, Tenn	DEO-0114
Do	McMinnville Gas Co., McMinnville, Oreg	DEO-0115
Do	"Mac" Hardy Oil Co., Danville, Va	DEO-0117
Sept. 22, 1978	Mull Drilling Co., Inc., Wichita, Kan	DXE-1674

Remedial Orders

Sept. 15, 1978	Estate of William Herbert Hunt, Dallas, Tex	DRO-0112
Sept. 18, 1978	Coastal States Gas Corp., Houston, Tex	DRO-0113
Sept. 20, 1978	Bultman, Inc., Elkhart, Kans	DRO-0116

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[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 986-2]

1981 AUTOMOBILE CARBON MONOXIDE EMISSION STANDARDS

Guidelines for Applications for Waiver of the 981 Carbon Monoxide Emission Standard

I. INTRODUCTION AND GENERAL INSTRUCTIONS

Under section 202(b)(5)(A) of the Clean Air Act, as amended (hereinafter the "Act"), 42 U.S.C. 7521(b)(5)(A) (1977), at any time after August 31, 1978, any manufacturer may apply for a waiver of the 1981 carbon monoxide (CO) standard of 3.4 grams per vehicle mile for any model of light-duty motor vehicles manufactured during the 1981 and 1982 model years. As stated in section 202(b)(5)(B), the maximum CO level for which a waiver may be granted is 7.0 grams per mile. Based on the Administrator's determination of what level of CO emissions is attainable by the applicant, the waiver may be granted for a more stringent standard than that requested. In order for a waiver to be granted, each of the criteria specified in section 202(b)(5)(C) must be satisfied. Under these criteria, a waiver can only be granted if the Administrator finds that protection of the public health does not require attainment of the standard of 3.4 grams per mile for those model years and those vehicle for which a waiver is sought. In addition, section 202(b)(5)(C) of the Act provides that a

waiver may only be granted if the Administrator determines that:

(i) Such waiver is essential to the public interest or the public health and welfare of the United States;

(ii) All good faith efforts have been made to meet the standards established by this subsection;

(iii) The applicant has established that effective control technology, processes, operating methods, or other alternatives are not available or have not been available with respect to the model in question for a sufficient period of time to achieve compliance prior to the effective date of such standards, taking into consideratrion costs, driveability, and fuel economy; and

(iv) Studies and investigations of the National Academy of Science conducted pursuant to subsection (c) and other information available to him has not indicated that technology, processes, or other alternatives are available (within the meaning of clause (iii)) to meet such standards.

The decision of the Administrator is required to be made within 60 days after receipt of the application, and after a public hearing (sections 202(b)(5) (A) and (C)). If the Administrator determines that a waiver should be granted, the CO emission standard for those vehicles and those model years to which the waiver is applicable will be prescribed by regulation issued simultaneously with the waiver decision (section 202(b)(5)(A)).

The purpose of this notice is to establish guidelines concerning the information which should be provided in any application for a waiver of the CO standards. In seeking a waiver under section 202(b)(5) of the Act, an affirmative burden is placed on the manufacturer to provide sufficient information to demonstrate that a waiver should be granted. The information contained in the application must be sufficient to satisfy each of the waiver criteria specified above.

The application should contain separate responses to each item specified in section III of these guidelines. The applicant may add to or expand upon any item to the extent he deems necessary or helpful to support the request for a waiver. The application may include any reports, records, or information pertinent to the request. The Administrator may request additional information on any item from the applicant if such information is deemed necessary or useful to the waiver determination. Furthermore, the Administrator need not base his decision solely on the application, and may consider any additional information as well.

The determinations in these proceedings will be based on a public record, and EPA intends to make all information available for public review. Accordingly, an applicant should make every effort to only provide information which can be included in the pulic record. Information claimed to be confidential should only be submitted where the failure to submit such information would seriously jeopardize the success of his application, or where the information has been submitted pursuant to a subpena, and where the release of such confidential information would cause the applicant significant harm. Information for which a claim of confidentiality has been made will be treated according to the following procedures.

In order to claim confidentiality, the manufacturer must submit the confidential information in a separate package identified by a label such as "trade secrets," "company confidential," or other appropriate label. Failure to assert a confidentiality claim in this manner will automatically result in the placing of the information in the public record without further notice. The information will then be reviewed pursuant to the procedures set forth in 40 CFR 2, Subpart B to determine to what, if any, extent the information claimed to be confidential is confidential. If the information is found to be confidential, EPA may, in any case, disclose it pursuant to 40 CFR § 2.301(g). That regulation provides for the disclosure of confidential information upon a determination that it is relevant to the proceeding and that making the information available to the public would serve the public interest. In no instance does section 307(a)(1) of the Act permit a claim of confidentiality with regard to emission data, as defined in 40 CFR § 2.301(a) (1977).

Under section 307(a)(1) of the Act, the Administrator is authorized to "issue subpenas for the attendance of witnesses and the production of relevant papers, books, and documents" in section 205(b)(5) proceeding. Because the Administrator must consider the activities of other vehicle manufacturers in assessing availability of effective technology and the air quality and public health impacts of granting the requested waiver, he may issue such subpenas to other light-duty vehicle manufacturers. Other manufacturers may be required to testify and submit information relevant to the applicant's waiver request, including data that potentially may be used in the manufacturers' waiver applications.

As provided in section 202(b)(5)(C), the waiver decision is to be made after a public hearing. In order to assure meaningful satisfaction of this requirement, interested persons must be given adequate and timely access to the application. Therefore, a minimum of ten (10) (if possible) copies of the application should be submitted to the Director, Mobile Source Enforcement Division (EN-340), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. For purposes of initiating the sixty (60) day period specified in the Act, an application will be considered filed on the day it is received by the Director, Mobile Source Enforcement Division. Any question regarding the guidelines published today may be addressed to Matthew A. Low, Mobile Source Enforcement Division, at the above address.

II. Discussion and Legislative History

The CO waiver of section 202(b)(5) was added to the Act as part of the Clean Air Act Amendments of 1977, Pub. L. 95-95, 91 Stat. 685 (hereinafter "1977 Amendments"). The provision was put into the 1977 Amendments by the conference committee, after agreement was reached on the statutory light-duty emission standards. See H.R. Rept. 95-564, 95th Cong., 1st sess. 166 (1977) (hereinafter "Conference Report").

The CO waiver provision is intended to be narrow in scope, and a waiver will only be granted if each of the criterion enumerated in section 202(b)(5) of the Act is satisfied. 123 Cong. Rec. S13702-03 (daily ed. August 4, 1977) (remarks of Senator Muskie). As stated by Senator Muskie during Senate consideration of the Conference Report, "the waiver in this bill is tightly constrained to apply only to the minimum extent necessary." Id. at S13703. As further explanined by Senator Muskie:

> This waiver is not a general waiver for all manufacturers, nor is it a general waiver for all models of vehicles produced by a single manufacturer. The waiver is intended to assist in the deployment of new technology. It is not to be considered a step in the direction of relaxation of the statutory carbon monoxide standard.

Id.

According to the language of section 202(b)(5)(A), any manufacturer may request a waiver. Under section 216(1) of the Act, 42 U.S.C. 7550(1) (1977), a manufacturer is defined as:

> Any person engaged in the manufacturing or assembling of new motor vehicles or new motor vehicle engines, or importing such vehicles or engines for resale, or who acts for and is under the control of any such person in connection with the distribution of new motor vehicles or new motor vehicle engines, but shall not include any dealer with respect to new motor vehicles or new motor vehicle engines received by him in commerce.

A manufacturer may request a waiver for any model of light-duty vehicles or engines. "Light-duty vehicle" is defined in 40 CFR § 86.077-2 (1977) as "a passenger car or passenger car derivative seating 12 passengers or less." As used in section 202(b)(5)(A), "engines" will mean engines which are to be incorporated into light-duty vehicles. For purposes of section 202(b)(5),

"model" will be considered synonymous with "engine family" as that phrase is defined in 40 CFR § 86.077-2 (1977), and as further defined in 40 CFR § 86.078-24 (a)(2) through (a)(4) (1977). Any separation of "model" based upon 40 CFR § 86.078-24(a)(4) should be fully justified in the application. A separate application should be submitted for each model for which a waiver is sought. In order to avoid a multiplicity of hearings, however, the manufacturer is requested to submit simultaneously applications for all models for which CO waivers will be sought. The manufacturer may cross-reference his other CO waiver applications where appropriate, provided that the precise nature and extent of the cross-reference is noted.

Under section 202(b)(5)(C), a waiver may only be granted if the Administrator finds that protection of the public health does not require attainment of the statutory CO standard of 3.4 grams per mile for those model years for which a waiver is sought, with respect to the vehicles covered by the application. The manufacturer should provide any available information on the public health effects associated with the difference between meeting a CO standard of 3.4 grams per mile and the standard sought in the application, for those vehicles and model years covered by the application. The manufacturer should provide sufficient information in the application to permit the Administrator to determine the effect the waiver would have on each State's ability to meet the primary ambient air quality standard for CO in each air quality control region, for those model years for which the waiver is sought.

In order to grant a waiver under section 202(b)(5) of the Act, the Administrator must be able to make each of the determinations enumerated in section 202(b)((5)(C)(i)-(iv), which are similar to the criteria that applied to requests for suspension under section 202(b)(5)(C) of the Act prior to the 1977 Amendments. As stated in section 202(b)(5)(C)(i) of the current Act, the granting of a waiver requires a determination that "such waiver is essential to the public interest or the public health and welfare of the United States." The manufacturer has the burden of providing sufficient information in the application to demonstrate that this criterion is satisfied. The question of whether the waiver is essential to the public health and welfare involves inquiry into all the health and welfare consequences of denying the waiver, including and examination of fuel economy and unregulated pollutant emission levels. As an example, the waiver could be considered essential to public health if, assuming the waiver were not granted, the use of available technology would result in emissions of some unregulated pollutant which would constitute a health risk. See 40 FR 11900, 11902 (1975) (suspension of 1977 standards due to expected increase in sulfuric acid emissions). This criterion also involves a comparison of the consequences of granting the waiver and denying the waiver. That is, even if denying the waiver would pose a health risk, the applicant must also demonstrate that granting the waiver would eliminate or substantially reduce this risk. With regard to whether the waiver is essential to the public interest, this issue will include consideration of whether the basic demand for automobiles can be met if the waiver is not granted. As explained by Senator Muskie:

> The determination of whether a carbon monoxide waiver is essential to the public interest or the public health or welfare of the United States will, of course, be affected by the performance of the industry as a whole. If only a small percentage of cars appear unable to meet the statutory standard of 3.4 grams, the denial of such a waiver would not make it impossible for the industry to meet the basic demand for automobiles. In addition, the inability of only a small number of cars to meet the statutory carbon monoxide question [sic] may call into question the good faith effort of the manufacturer.

123 Cong. Rec. S13702 (daily ed. August 4, 1977) (remarks of Senator Muskie).

Under section 202(b)(5)(B), the maximum CO level for which a waiver can be granted is 7.0 grams per mile. However, if a manufacturer can meet a more stringent standard during the period for which the waiver is sought, then a waiver will only be granted for this attainable level. Similarly, although a waiver may be sought for the 1981 and 1982 model years, the waiver will be granted only for the 1981 model year if the manufacturer can meet the 3.4 grams per mile standard in the 1982 model year.

III. Application

The waiver application should be prepared in five major sections, and should correspond to the following format.

Section 1. This section should not include any confidential information and should:

a. Identify the applicant as a manufacturer, and identify any other person engaged in the manufacturing, distribution, and sale of vehicles manufactured, distributed, or sold by the applicant.

b. Contain a summary of the applicant's position and supporting arguments with respect to each of the criteria set forth in the above Introduction and Discussion.

c. Describe the model of light-duty vehicles for which the waiver is sought.

d. Set forth the model years for which the waiver is sought.

e. Set forth the interim CO standard for each model year which the applicant believes should be established in lieu of the standard which would otherwise be applicable.

f. Identify to the extent possible those other models and model years for which additional CO waivers will be sought.

Section 2. This section should contain sufficient information to demonstrate that protection of the public health does not require attainment of the 3.4 grams per mile CO standard for those model years for which a waiver is sought, with respect to those vehicles covered by the application. In this section, for the subject vehicles the manufacturer should provide in detail any information which is either currently available or in the process of being generated, concerning the public health effects associated with the difference between meeting a CO standard of 3.4 grams per mile and the standard sought in the application. This information should be sufficient to permit the Administrator to determine the effect the waiver would have on each State's ability to meet the primary ambient air quality standard for CO in each air quality control region, for those model years for which the waiver is sought. To the extent possible, the information provided in this section should take into account all models for which the manufacturer will be requesting CO waivers.

Section 3. This section should provide sufficient information to demonstrate that the waiver being sought is essential to the public interest or the public health and welfare of the United States. To the extent possible, the information provided in this section should take into account all models for which the manufacturer will be requesting CO waivers. If the manufacturer claims that the waiver is essential to the public interest, this section of the application should specify the particular aspect of the public interest which would be served by the waiver, and should describe in detail the consequences of denying the waiver request. As an example, one aspect of the public interest would be the ability to meet basic market demand for automobiles. Similarly, if the manufacturer claims that the waiver is essential to the public health and welfare, this section of the application should specify the particular aspect of the public health and welfare which would be served by the waiver, and should examine in detail the health and welfare consequences of denying the waiver. For example,

the waiver could be considered essential to the public health if denying the waiver would result in the emission of some unregulated pollutant in such levels as would pose a risk to public health.

Regardless of whether the manufacturer claims that the waiver is essential to the public health and welfare, this section of the application should also examine the public health consequence of granting the waiver, in order to insure that the waiver will not endanger public health. This involves inquiry into the emission levels and associated health effects of all unregulated pollutants. As part of the demonstration of the necessity for this waiver to benefit the public interest or health and welfare, the manufacturer should fully explain why other models, not requiring such a waiver, could not be substituted into the manufacturer's product line to satisfy the needs of the marketplace.

Section 4. This section of the application should provide all the information necessary to demonstrate that the manufacturer has made all good faith efforts to meet the CO standard of 3.4 grams per mile. this section should include a statement which fully explains the total effort made by the manufacturer, or expected to be made in the future, to achieve compliance with a standard of 3.4 grams per mile, and a detailed account of the manufacturer's financial commitment to this aspect of light-duty vehicle emission control. Section 4 should contain the following subsections:

a. This subsection should present the applicant's statement concerning the level of effort expended in research, development, testing, and engineering programs in the area of light-duty emissions control. This should include all efforts aimed at control of CO, and all other programs dealing with light-duty emission control development which might affect the applicant's CO control program. The statement should include;

1. The overall organizational chart for light-duty emission control activity with an indication of the decisionmaking process in major areas, for example, selection of the first choice 1981 model year system.

2. The composition of the program(s), presented in sufficient detail to include the number and qualifications of professional personnel assigned to CO or related emission control activity, and the academic or functional disciplines involved, the type(s) and quality of major items of laboratory equipment used (e.g., visible, ultraviolet, and infrared spectrophotometers), and the laboratory and testing facilities used. When equipment, projects, and personnel are only partially dedicated to CO or related emission control activities, applicant should indicate the percentage portion of such equipment, projects, and personnel so dedicated.

3. The purpose of each program, including the specific technical problem or area toward which the program is directed, the reasons for the program, the date the program was started and its projected or actual end date.

4. The progress of each program toward achieving the goals set out for it, including information as to: (i) Whether the program is ahead or behind schedule, (ii) important milestones that have been met/not met, (iii) the number of times the program's progress has been reviewed (date and specifics) and the personnel responsible for the review, (iv) the outcome of the program reviews, and (v) any changes there have been in the rate of progress for the program as a result of review and redirection.

5. A narrative discussion of the results. Quantitative data should be included here to the extent it is not presented in other sections of the application.

6. Where an individual project within a program is of significant importance or has been fully discussed in the program description, a narrative description providing at least the following: Time of project start/end, level of effort (man-hours), reason for starting and stopping the project, results obtained, and how the results of the project were used in the overall approach to the emission control program being investigated.

7. That portion of the program(s) carried out under contracts or agreements with other firms or ad hoc organizations.

8. The accomplishments of the research, development, testing, and engineering program(s) in terms of determination of feasible and nonfeasible approaches to emission control, patents obtained or pending, and publications in technological journals, including knowledge and account of any pertinent independent research conducted by facilities not associated with the applicant.

b. This subsection should contain a detailed expression of the applicant's financial commitment to CO or related emission control research, development, testing, and engineering activities for light-duty vehicles.

1. A project narrative should be completed for each project or particular phase of a project in research, development, testing, and engineering for the years 1969 through 1982 (as applicable). The project narrative should include the following:

A. Project title, number, or designation and date started or planned to start.

B. Project description, including objectives, scope, approach, phase, and status. Phase refers to research, development, engineeing, testing, or other areas of the CO or related emission control program. Project status should indicate the percentage completion of the project and which phases of the program have been completed for the project and which phases are pending.

C. Description of the project's relationship to the total effort to meet the CO or related emission standards for the 1981 model year and relationship to or dependency upon other projects. The descriptions should include whether the project was originated because of the 1977 Amendments to the Clean Air Act, the original objectives of the project if they have changed since inception, the percent of direct cost attributed to the present project objectives, and the basis of the percentage attribution.

2. Direct research, development, testing, and engineering costs should be summarized. These costs should be presented as shown below, by the type of expense and year of expenditure, including projections for 1979–82, for each project described in section 4(b)(1) of the application, as discussed above. Financial data presented in this subsection must be consistent with the project narratives in 4(b)(1), and should conform to the applicant's normal accounting year (with designation of the fiscal year end).

The outline below is suggested as the format for reporting the direct costs for each project identified in 4(b)(1).

Project title: ————.
Actual cost: 1969, 1970, 1971, 1972, 1973, 1974, 1975, 1976, 1977, 1978.
Projected costs: 1979, 1980, 1981, 1982.

Direct project costs

A. Salaries and wages:
(1) Professionals.
(2) Laboratory technicians.
(3) Other technical and clerical personnel.
B. Chemical and gases.
C. Laboratory supplies.
D. Outside services (identify).
E. Rental expenses.
F. Equipment purchases expense.
G. Depreciation expense.[1]
H. Other direct costs (identify).
I. Total direct project costs.

Other information

J. Number of personnel directly assigned to project at end of each year:
(1) Professionals.
Full time.
Part time.
(2) Laboratory technicians.
(3) Other technical and clerical personnel.

If the expanse classifications listed above are expanded or contracted, such modifications should be done in a consistent manner. Changes in these classifications should be specifically indicated and explained.

[1]Submit separate schedule indicating costs of buildings and-or equipment purchased and the respective asset life used to calculate depreciation.

3. Applicant should indicate in this subsection all other costs that may be allocated to the emission control projects reported in 4(b)(1). Such costs are to be listed by year of expenditure, including projections through 1982. This subsection should also include a statement of the manufacturer's total annual light-duty research and development costs (actual or projected) for the years 1969 through 1982, and total domestic (U.S.) annual light-duty vehicle sales (actual or projected) for the years 1969 through 1982.

Section 5. In this section the manufacturer should provide all the information regarding the availability of effective control technology, processes, operating methods, or other alternatives taking into consideration costs, driveability, and fuel economy. This information should establish, with respect to the model(s) covered by the application, that the technology necessary to comply with a 3.4-gram-per-mile CO standard (1) is not presently available, (2) cannot be developed and implemented in the time between the submission of the application and the start of 1981 or 1982 model year production, and (3) will not become available during the 1981 or 1982 model year. All the information and data requested in this section should include and emphasize data regarding that configuration of the model, for which a waiver is requested, having the greatest likelihood of meeting the 3.4-gram-per-mile CO standard. The information requested in this section, if provided with sufficient support material and in sufficient detail, will be considered by the Administrator to be the minimum required of the applicant to establish his inability to comply with the standards. An applicant is, however, encouraged to submit additional data and information which is necessary to support the request.

The section should be divided into two parts. The first part should present a general discussion of the applicant's argument as it relates to the topics listed below. The second part should give a detailed presentation, in the format shown below, of the technical information required to make a meaningful assessment of the applicant's argument.

a. General information: 1. What emission control results have been achieved to date for the first choise system and all alternative system considered for compliance in 1981 and 1982 model years.

2. Engineering goals for the emission levels to be achieved by low-mileage engineering prototypes in order to achieve compliance with the emission standards, including assumptions made to arrive at those goals, factors assumed to allow for production variations, prototype-to-production slippages, and deterioration; and change in production variations assumed to occur by 1981 model year production.

3. Major problems associated with the most promising system investigated, including fuel consumption, emissions of currently unregulated pollutants, reduced driveability, other performance penalties, and any safety, maintenance, servicing, warranty, development (emission performance, durability, and producibility), production tooling, and vendor problems.

4. Plans for resolving the problems identified in 3, including use of technology developed outside the company or outside the automobile industry, timetable for developing solutions, critical milestones for meeting this timetable, confidence palced in the schedule, areas of greatest uncertainty, probable or possible breakthrough(s) that would result in a significant reduction in leadtime.

5. Detailed leadtime schedule for model years 1981 and 1982 production, including crucial milestones, commitment and signoff dates, leadtime requirements of vendors, and specific leadtime schedules for those emission control system components which are most critical. Discussion of how much less leadtime would be required to produce a reduced number of models or nameplates that will comply.

6. The efforts that have been made to identify useful technology developed by other companies.

7. The interim standards which could be met in each of the model years 1981–82 (not to exceed 0.41 HC, 7.0 CO, 1.0 NOx) including the assumptions used to arrive at these attainable levels, emission control system to be used, the extra cost to the car buyer for such a system, and the associated increased annual operating cost. Such interim standards should reflect the greatest degree of emission control achievable by application of available technology.

b. Technical information. Information should be submitted on each and every program, project, or working area that impacts on the overall emission control system development relevant to the waiver application. This should include all programs/projects that are directed toward the development of systems or subsystems to be used in 1981 and 1982 model year emission control systems as well as those programs/projects aimed at the development of systems or subsystems not how actively under consideration for incorporation into 1981 and 1982 model year systems but which at one time were under consideration. Information on all system or subsystem development relevant to the waiver application is necessary even if the program/project was started before the passage of the Clean Air Act Amendments of 1977.

The Administrator will review all data from each of the programs discussed to determine the likelihood that the applicant's systems will be capable of meeting the 3.4 CO standard. A Monte Carlo simulation will be used as part of the analysis methodology applied to these data for that determination. To assure that this technique may be employed, the applicant should supply all data for both emission data prototypes as well as duriability vehicle prototypes. In order that the methodology be properly applied, for each model for which the manufacturer seeks a waiver, variability data must be submitted. The data shall include test-to-test variability data, car-to-car variability data, and DF variability data. All the data, the distributions inherent to the data, and the appropriate standard deviations for the data shall be supplied. The manufacturer's waiver application shall also contain recommendations for the test-to-test, car-to-car, and DF standard deviations to be used in EPA's methodology, along with analyses and rationale that support the recommendations. The treatment of this information in determining the ability of the applicant to meet the 3.4 CO standard will be similar to that described in similar analyses performed in past waiver and suspension considerations (for example, see—In re: Application for Suspension of 1975 Model Year Motor Vehicle Exhaust Emission Standards, *Decision of the Administrator on Remand from the United States Court of Appeals for the District of Columbia Circuit*, April 1973, Appendix B).

1. Test procedures and emission data format. For maximum usefulness all emission data reported should be taken by the 1975 Federal Test Procedure. If this is not possible, data should be reported in its original form, specifying the appropriate test procedure. The data should then be converted into a 1975 test procedure equivalent (if possible) by the applicant. The basis for such a conversion process should include tests with the same type of emission control systems on similar vehicles using both the non-1975 test procedure and the 1975 test procedure. The explanation of each conversion should include a statistical justification of the conversion factors chosen.

2. Vehicle and test description. The vehicles on which the emission data is presented should be fully identified with respect to the following 20 items:

A. Vehicle Description: Vehicle identification No., marketing name and model, body type, tire size, tire manufacturer, tire type, weight (full fuel tank), and intertia weight.

B. Purpose of Test: Durability, experimental system evaluation, etc.

C. Mileage Accumulation Procedure: A.M.A. driving cycle, company durability cycle (specify cycle and maintenance performed), etc.

D. Emissions Test Procedure: 1975 test procedure. Modal emission data are also considered important and should also be supplied, if available.

E. Testing Frequency: Planned/actual mileage accumulation between tests.

F. Engine: Displacement, configuration, bore, stroke, combustion chamber type, and compression ratio.

G. Fuel Metering:

(1) Fuel injection—Type of injection, manufacturer's model number, air/fuel ratio curve, altitude compensation, cold start calibration, and feed back control characteristics.

(2) Carburetion—Type, manufacturer's name and model number, air/fuel ratio curve, altitude compensation, cold start calibration, and feed back control characteristics.

H. Aspiration: Naturally aspirated, supercharged, turbocharged, maximum system air flow rate (cfm).

I. Air Cleaner: Intake air treatment, heat source, modulation procedure, set point temperature, etc.

J. Powertrain: Type—automatic, manual 3 speed, 4 speed, etc.

K. Torque Converter: Size and manufacturer, model No., stall speed, torque muliplication, etc. Indicate if torque converter lockup is used and on which gears.

L. Clutch: Type.

M. Transmission: Type, manufacturer, model No., stall speed, torque multiplication, gear ratios, etc. For automatic transmissions indicate if the shift actuations are controlled conventionally or electronically.

N. N/V: Engine speed with transmission in revolutions per minute divided by vehicle speed expressed in miles per hour.

O. Exhaust Gas Recirculation: Type of control. Flow rate as a function of engine load and speed. Admission flow characteristics, method of modulation, EGR-AECD's.

P. Exhaust Gas Aftertreatment Devices: Thermal reactor—type (lean/rich), configuration, materials, internal flow geometry.

(1) Catalysts—type (reducing, oxidizing, three-way), active material (general) class, loading by noble metal and total weight, per type of metal and of each catalyst material, and the total in troy ounces per vehicle, substrate structure type (monolith/pellet), number of substrate cells per square inch, substrate composition, washcoat composition, total surface area of the washcoat, surface area per displacement of the washcoat, catalyst location, shape and size, geometry, manufacturer and manufacturer's identification number, nominal space velocity, and space velocity range.

(2) Trap Oxidizer—type, configuration, materials, flow geometry.

Q. Electronic controls: Electronic control unit type (analog, digital), parameters sensed (coolant temperature, engine speed, exhaust oxygen content, throttle position, manifold vacuum, humidity, etc.), parameters controlled (air/fuel ratio, ignition timing, EGR rate, choke position, secondary air modulation, etc.), size and amount of program primary storage, relationship between sensed and controlled parameters (equations, graphical representations, etc.), method of programing controller, transducers and actuators used, schematic of electronic control system, effect of power supply voltage variations on control signals, default control logic during failure of any combination of sensors, transducers, and/or actuators.

R. Special System Feature: Any components not shown above which affect the control of emissions.

S. Fuel: Type (gasoline or diesel), all other information required in the application for certification format, as applicable.

T. Engine Lubricant: Brand name, SAE viscosity range, content of sulfur, phosphorous, lead, calcium, etc. Discussion of special additives studied.

U. The date of the test, the driver's full name, the responsible engineer's full name and the project under which this test was performed.

3. Durability testing. Durability testing results are considered important. Durability test data submitted should include at least the following information:

A. A description of the type of durability schedule. The EPA-AMA certification durability schedule is one example. Since this is the schedule from which vehicle deterioration factors are derived for certification purposes, it is considered the most important. It is realized, however, that other durability procedures are considered important to manufacturers. Any available data from so-called "customers service durability" or other schedules, may also be useful. This type of schedule should be clearly identified and described in detail. The reasons for the existence of the test and the way in which the results are used should be identified. If the emissions on these tests (tests other than EPA durability) differ from the emissions on the EPA schedule, the reasons for the differences should be explained.

B. Data taken on EPA durability tests should be reported at the same mileage increments (approximately 5,000 miles) as on regular certification tests. Any variation from the nominal 5,000 mile increment should be explained.

C. More than one data point at each mileage point is preferred. The deterioration factor should be explained fully as to frequency of testing and number of tests at each mileage interval. The explanation should include reasons for conducting the emission testing program, so that the rationale for any characteristic of the test program, such as a single test instead of back to back tests, etc., is apparent.

D. If a test is reported to have been terminated, the reasons for the termination should be explained fully for each case in which durability testing was stopped. The precise reason for the termination of the test, one that is logically consistent with the overall program rationale, should be provided. A discussion of what was learned from terminated tests, for example, a description of the analysis made of failed components, should be included for each test that was stopped. How the results of unsuccessful (or successful) tests feed back to the direction and emphasis of the program is considered important.

E. The number of vehicles used, their relationship to the current and planned product mix, and the number of duplicate vehicles for each engine/transmission family undergoing durability testing should be explained fully. The explanation should indicate (i) the estimated confidence level in the results from the number of test vehicles, and (ii) a comparison between the number of vehicles claimed adequate for emission control systems durability testing and the number of vehicles usually tested for durability in proving out other systems.

4. Test results. All relevant data resulting from developmental programs and projects should be reported. This includes data from durability, performance, component/subsystem checkout, calibration and optimization testing.

A. Emission Test Results. This information should be presented as indicated in section 5(b)(1) of these guidelines and include in chronological order a record of all system changes, maintenance (including reasons for performing maintenance), and a detailed explanation of reasons for test termination when it occurs. Emission data for the system without its catalyst(s) should also be presented, if available, or if determined by modal test performed both upstream and downstream of the catalyst.

B. Costs:

(1) The additional cost of meeting the statutory 3.4 grams per mile CO standard versus those costs which would result from meeting the applicant's suggested waiver standard will be considered in the Administrator's

determination. Therefore, the applicant should fully describe those cost differences outlined in the following paragraphs.

(2) First Cost:

(a) The cost breakdown should be by major components such as catalysts, EGR valves, air pumps, ECU's, sensors and/or transducers, and include as separate items such additional hardware as vacuum lines, wiring harnesses, brackets, belts, pulleys, insulation, shields, and requisite engine and/or vehicle modifications.

(b) The production volume assumed, number of suppliers or vendors, and each supplier's approximate market share should be clearly stated.

(c) The method(s) used to estimate the cost to the applicant and the resulting retail price equivalent or "sticker price" such as the expected vendor price times a markup factor should also be described. If such a markup factor is used, the factor should be explicitly stated and a discussion of what influences the level of this factor such as the number of suppliers, component complexity, consumer target market, etc. should also be presented. If the cost to the applicant varies between different suppliers, discuss the extent of such variation relative to the size of the purchasers.

(d) All cost data shall be presented for two cases: Case I: meeting the 3.4 CO standard; Case II: meeting the applicant's recommended interim standard. The incremental cost difference shall also be determined, both as it affects the applicant and as it affects the initial cost to the consumer or the sticker price.

(e) All costs attributable to meeting Federal fuel economy requirements.

(3) Operating Costs:

This should include expected extra costs to the vehicle owner(s) over the vehicle lifetime (assume 100,000 miles) due to:

(a) Fuel and lubricant cost, specifying the miles per gallon fuel economy assumed for each engine emission control system and a comparison to similar earlier model year vehicles.

(b) Maintenance cost, identifying parts and labor cost separately, providing the estimated parts costs and ratio of estimated parts cost for replacement vs. OEM parts for required maintenance on each major emission control component which results in such costs. Labor costs shall be described using labor hours and hourly rate.

C. Driveability. The Administrator will Consider the effect on driveability which may result by meeting either the statutory 3.4 grams per mile CO standard or applicant's suggested waiver standard. In this regard, the applicant should present all available data which indicates that adverse driveability resulting from meeting the statutory 3.4 grams per mile CO standard would lead to increased CO emissions from in-use vehicles due to tampering, maladjustment or similar actions.

To allow a meaningful evaluation of this criterion, the applicant should present all available driveability rating information associated with each engine, control system, transmission, N/V ratio, and vehicle body style combination under consideration for a waiver. The test procedures used by the applicable driveability rating should be fully disclosed, including the applicant's criteria used to determine if the vehicle provides acceptable driveability for sale to consumers.

Since the driveability of vehicles may vary depending upon whether they are prototype developmental vehicles, certification vehicles, running change vehicles, and/or actual production vehicles, the applicant should supply detailed information concerning the driveability of vehicles from previous model year which compares the driveability of prototype developmental certification vehicles, running change vehicles and, finally, production vehicles in consumer use. The information required is as follows: The applicant should supply driveability data on all models, beginning with model year 1967 (and, if the applicant desires, earlier model years) through data from model year 1978 and data available to date on model year 1979 prototype vehicles. For each model year and for each model, driveability and other data should be provided for the engineering sign off vehicle (assumed to be a prototype), the durability vehicle, the emission data vehicle(s) and all running change vehicles of the same model type. The CO standard (1975 FTP basis or emission level for 1967 vehicles) for which each model was designed to meet shall also be provided. In addition for the emission data, durability and running change vehicles, the actual CO data shall be provided.

In addition, for each model and model year the applicant should provide all driveability data from production vehicles. This data can be from vehicles produced and audited for driveability by the manufacturer before sale or subsequent use by the manufacturer, and/or vehicles used in driveability evaluations (e.g., the yearly CRC programs), and/or vehicles that were obtained from owners and tested for driveability by the manufacturers, and/or from warranty and in-use complaint data. With respect to warranty and in-use complaint data, the applicant should provide a summary of all driveability-related warranty and in-use complaint data for each and every model and model year. This summary should specifically identify each and every driveability malperformance area, and the percentage of models affected by each and every driveability problem. Also, the corrective action that was taken and-or recommended by the applicant for each driveability problem should be provided. This comparison will be used as a guide for the Administrator to make projection (as and if necessary) of the driveability performance of vehicles in hands of the public, if data from prototype vehicles are all that are available.

Manufacturers employ a variety of procedures to rate the driveability of their vehicles. It will be of benefit in determining the relative driveability characteristics of the vehicles, therefore, if the manufacturer also supplies parallel sets of driveability ratings performed on the subject vehicles following a commonly accepted procedure such as the CRC rating procedure.

D. Fuel Economy. The Administrator will also consider the effects on fuel economy of requiring that the applicant attain the 3.4 grams per mile CO standard. Therefore, the applicant should present, along with relevant emission data, a comparison of the fuel economy which is estimated to result from the imposition of a 3.4 gram per mile CO standard and the fuel economy which is estimated to result from the imposition of the CO waiver standard for which the applicant is applying. The comparison data should be developed from vehicles whose caracteristics that affect fuel economy are as nearly identical as possible, aside from differences required to meet different CO levels. All vehicle specifications should be fully disclosed as outlined in section 5(b)(2). The data should be developed from the EPA recognized FTP and HWFET procedures.

In addition to actual fuel economy values, the applicant should fully discuss the effect that programs aimed at vehicle weight reduction, vehicle power-to-weight reduction, drivetrain improvement, and engine efficiency improvements will have on fuel economy when considered in conjunction with both the 3.4 gram per mile CO standard and the waiver standard recommended by the applicant.

5. Other pollutants—

A. General. All programs, tests or analyses conducted by or for the applicant, or known by the applicant to have been conducted by component suppliers or others, to identify, quantify, or control the effect of candidate emission control systems on emissions of substances, other than HC, CO, and NOx, should be described. Such descriptions should, at a minimum, identify the organization conducting the study, the types of systems studied, the procedures employed and the types and/or levels or emissions those

procedures were expected to identify, quantify, or control and a general description of the results obtained. Detailed discussions of the results of studies in which effects of systems on such emission were found should be provided in subparagraphs B through D below.

B. Particulates. All relevant data on organic and inorganic particulate emissions should be presented. The test procedure by which the particulate emissions were determined should be specified in detail, including the type of instruments, their calibration, and correlation with other methods or instruments.

C. Gaseous emissions. All relevant data and information concerning the amount and nature of gaseous emissions (other than HC, CO, NOx, or sulfur oxides) produced by any developmental control system should be presented. The test procedures by which the emissions were determined should be specified in detail, including the type of instruments, their calibration, and correlation with other methods or instruments.

D. Sulfates. All relevant data and information concerning the amount and nature of sulfate or sulfur oxides emissions should be presented including details on the test conditions, instrumentation, and sampling and analytical methods used. Information regarding the applicant's current activity and results concerning the control of sulfate emissions are especially important and should be provided as follows:

(1) A description of each sulfate emission control device or sulfate emission control method explored by the applicant. Describe the device or method in detail, with an explanation of the principle of operation.

(2) A listing of all tests performed by the applicant with sulfate control devices or methods. Describe the vehicle and the control device/method fully, indicate what the test procedure and analysis method were, and give the baseline results and the modified results for sulfate emissions.

(3) Assessment of the practicability of controlling sulfate emissions on the vehicle. The practicability of control should be based on the applicant's own test and/or knowledge of vehicular sulfate emissions control.

(4) A full description of the level of effort now underway in the area of sulfate emissions control. Note that this includes not only sulfate emissions characterization, i.e., determining how much sulfate emissions are emitted and what factors influence the emission levels, but also the level of effort directly targeted toward developing control of sulfate emissions. Indicate how many engineers and technicians, in man-years of equivalent effort, are now assigned to this area, how much testing and support is being given to this project (for example how many test cells and how much prototype hardware fabrication support is assigned), and what the current plans are for this area (explanation, same level of effort, or lower level of effort).

(5) A full description of any CO/sulfate relationship that may exist or is claimed to exist for the vehicles for which the applicant desires a waiver. A description of programs undertaken to modify the CO/sulfate relationship to enable acceptable performance for both CO and sulfate to be attained. The Administrator is aware that CO/sulfate "tradeoffs" may be postulated. However, that there is a relationship between CO and sulfate for some systems (e.g., oxidation catalysts with uncontrolled air injection systems) has been known for some time, and it is expected that the existence of, and the effort devoted to improved CO and sulfate control will be evaluated from both the technological feasibility point of view and with respect to the determination under section 202(b)(5)(c)(ii).

Dated: October 4, 1978

MARVIN B. DURNING,
Assistant Administrator for Enforcement.

[FR Doc. 78-28834 Filed 10-12-78; 8:45 am]

[6560-01-M]

[FRL 986-1]

SCIENCE ADVISORY BOARD EXECUTIVE COMMITTEE

Open Meeting

As required by Pub. L. 92-463 notice is hereby given that a meeting of the Executive Committee of the Science Advisory Board will be held beginning at 9 a.m., October 30 and 31, 1978, in the Administrator's Conference Room (Room 1101, West Tower), EPA Headquarters, 401 M Street SW., Washington, D.C.

The agenda includes a briefing on the implementation status of the Toxic Substances Control Act; a discussion of alternatives for promoting a greater cooperation of research activities between universities and the Environmental Protection Agency; plans for reviewing the water quality criteria documents for 65 water pollutants; and a discussion of hazardous disposal issues. The meeting is open to the public.

Any member of the public wishing to attend, participate, or obtain information should contact Dr. Richard M. Dowd, Staff Director, Science Advisory Board, 202-755-0263, by close of business October 25, 1978.

Dated: October 6, 1978.

RICHARD M. DOWD,
Staff Director, Science Advisory Board.

[FR Doc. 78-28833 Filed 10-12-78; 8:45 am]

[6560-01-M]

[FRL 986-6; OPP-42049D]

NEBRASKA

Implementation of a Federal Plan for Certification of Pesticide Applicators

On December 7, 1977, the U.S. Environmental Protection Agency (EPA) published in the FEDERAL REGISTER proposed regulations (42 FR 61873) specifying the requirements which would apply to applicators of restricted use pesticides under a Federal certification program. A 30-day public comment period ending on January 6, 1978, was provided.

On June 8, 1978, EPA published in the FEDERAL REGISTER (43 FR 24834) final regulations governing "Federal Certification of Pesticide Applicators in States or on Indian Reservations Where There Is No Approved State or Tribal Certification Plan in Effect." These regulations amended 40 CFR Part 171 by adding a new § 171.11, and became effective on June 8, 1978. All Federal certification plans implemented by EPA must be consistent with these regulations.

On March 15, 1978, EPA Region VII published a notice of its "Intent to Implement a Federal plan for the Certification of Pesticide Applicators" in Nebraska (Notice of Intent) in the FEDERAL REGISTER (43 FR 10727). This notice summarized the planned certification program and provided a 30-day public comment period ending April 15, 1978. Comments were received from seven individuals and organizations. Certain changes in the Federal plan have been made in response to these comments and in agreement with 40 CFR 171.11. Significant comments and modifications to the March 15, 1978, proposed plan are discussed below.

Four commenters questioned the need for a Federal certification program, contending that the Nebraska State plan submitted on June 28, 1977, was adequate and should be approved. The Nebraska State plan was disapproved by the Regional Administrator, EPA Region VII, on November 14, 1977, after a long and careful review, which included a public hearing in the State. A FEDERAL REGISTER notice was published on November 25, 1977 (42 FR 60223), discussing the deficiencies in the State plan. Reasons for rejecting the Nebraska State plan were also briefly summarized in the preamble to the March 15, 1977, Notice of Intent. Nothing has since occurred to change

this decision and the Agency's position on this matter remains the same.

Several commenters suggested that the 2-year certification period for commercial applicators under the Federal plan be extended. Some of the commenters argued that the period should be lengthened to 4 years, which would be equal to the average certification period for commercial applicators under approved State plans. One commenter requested that a 3-year period be adopted in order to be consistent with the length of certification for private applicators under this plan. Two commenters also suggested that the 3-year private applicator certification period established by this plan be extended to 4 years to be consistent with the average period under approved State plans. Similar comments were made to the proposed Federal certification regulations, referenced earlier in this notice, and were rejected. The reasons for rejecting these requests were fully discussed in the preambles to the proposed Federal certification rule (42 FR 61873) and the final rule (43 FR 24834-34835), also referenced earlier. The same reasons justify rejection of the comments to this plan. In addition, the certification periods established in this plan must be, and are, consistent with those established by the Federal certification rule at 40 CFR 171.11(c)(4) and 171.11(d)(2).

Several commenters objected to the provision in the proposed plan requiring commercial applicators to renew their certification by passing a written examination. These commenters suggested that completion of an approved training course be allowed as an alternative method of renewal. Similar requests were made in regard to the proposed Federal certification rule and were acted upon by EPA. Accordingly, 40 CFR 171.11(c)(6) now recognizes completion of approved training as a method of renewing commercial applicator certification, and the Federal plan for Nebraska has been amended to reflect this change. However, as stated in the preamble to the Federal certification rule, EPA is not now in a position to provide the training required for renewal of certification. The availability of training will, therefore, be dependent upon the willingness and capability of public or private organizations to develop recertification training programs which can be approved by EPA. Region VII will, on its part, work closely with the Nebraska Cooperative Extension Service (CES), as well as with other training experts, in developing criteria for approving recertification training programs. A memorandum of understanding was finalized on August 14, 1978, between EPA, Region VII, and the University of Nebraska Cooperative Extension Service (CES), assigning the responsiblity for administering the Nebraska pesticide applicator training program for initial certification and for recertification to the CES.

In addition to the previously described changes in commercial applicator recertification methods, the final Federal plan for Nebraska is modified by adding provisions which require certified commercial and private applicators to complete recertification procedures during the 12-month period preceding the certification expiration date. The purpose of this addition is to insure that recertification procedures are not completed so far in advance of certification expiration as to be nonindicative of the applicator's competency at the time his or her certification is renewed. This addition is also required by the final Federal certification rule (40 CFR 171.11(c)(6) and 171.11(d)(3)).

Four commenters criticized the discussion of EPA's inspection and investigation procedures in the Notice of Intent. The commenters were apparently confused by the brief summary contained in the FEDERAL REGISTER notice. They seemed to fear that EPA will engage in unauthorized and unreasonable warrantless searches of commercial and private premises, without seeking the consent of the property owner. They also seemed to believe that EPA's inspectors are not sufficiently guided and regulated in the exercise of their duties. Such fears are groundless. The Federal plan itself described in some detail the procedures inspectors will follow and the limits placed on their authority. This includes a commitment by EPA to seek a warrant or consent before inspecting private premises where pesticides are being applied. Proposed amendments to FIFRA, recently approved by a congressional conference committee, do expressly confirm EPA's interpretation that it has authority to conduct warrantless inspections of the books, records, and business establishments of commercial applicators applying pesticides for hire in States, such as Nebraska, where EPA has primary responsibility for enforcing pesticide use laws. However, such warrantless inspections, and all other inspections in Nebraska, will be conducted consistently with procedures and methods carefully specified in EPA's Pesticides Inspection Manual. These restraints and guidelines insure that EPA inspectors will continue to act within the bounds of their authority, and will respect the rights of all individuals.

Five commenters suggested that region VII accept as sufficient for Federal certification purposes, commercial applicator examinations administered by the Nebraska Department of Agriculture after December 31, 1977, as it has agreed to do for examinations administered during 1977. This was reviewed in the March 15, 1978, Notice of Intent. During 1977, EPA Region VII provided the State department of agriculture with a grant requiring the State to administer a certification program which would meet Federal standards. This grant has expired and has not been renewed. Without such a grant or a formal agreement between EPA Region VII and the Nebraska Department of Agriculture, the State is under no obligation to administer a certification program that meets the Federal standards. Without such assurances, EPA would need to continually evaluate each State examination to determine whether it meets the minimum Federal standard. Since this agreement was unattainable, State examinations will not be accepted after December 31, 1977. Therefore, region VII rejects this proposal.

Four commenters expressed their opinion that training and examination of commercial applicators should be offered more often and in more locations than are currently planned. Their desire is apparently to make certification more convenient for commercial applicators. EPA has already arranged the most reasonable and convenient examination and training schedules possible within the Agency's budget. Examinations will be arranged daily, on request, to EPA's office in Lincoln, Nebr. Examinations will also be offered on a regularly scheduled basis at other locations in the State. Also, the Nebraska CES will offer training semiannually to commercial applicators seeking such training. No revisions are contemplated at this time.

Four commenters asked for clarification as to how a Nebraska reciprocal certification would relate to a State with a longer time period before expiration. As stated in the Notice of Intent, a Nebraska reciprocal certification will expire 2 years from the date of issuance or upon termination of the certification issued by the other State, whichever occurs first. This procedure is designed to facilitate administrative efficiency. Therefore, EPA Region VII believes the Federal plan is adequate as written and does not need further revision.

Five commenters objected to the proposed recordkeeping requirements for commercial applicators on the grounds that the required record contents would exceed those established by regulation as the minimum required under an approvable State plan (40 CFR 171.7(b)(1)(iii)(E)). EPA Region VII believes that the recordkeeping requirements are consistent with those established at 40 CFR 171.11(c)(7). Similar comments were made to the proposed Federal certifi-

cation rule, and were generally rejected for reasons stated in the preamble to the final Federal certification rule.

On commenter suggested that recordkeeping requirements for dealers of restricted use pesticides be discussed in the Federal plan for Nebraska. EPA currently does not require dealers who are not producers of pesticides to keep any records. However, proposed amendments to FIFRA, expected to be enacted in the near future, expressly authorize EPA to require dealers to keep records specified by the Administrator. EPA expects that such recordkeeping requirements will be imposed soon after the amendments to FIFRA become law. In the interim, EPA Region VII will exercise it authority under section 8(b) of FIFRA to inspect the records which dealers keep in the ordinary course of their business, as described in section VI.A of the Federal plan for Nebraska.

One commenter asked if a person certified in the subcategory food processing and grain handling also needs to be certified in the category industrial, institutional, structural and health related pest control. A person need not be certified in the category to work in the subcategory because the two are separate and independent.

Finally, certain minor technical corrections have been made in the Federal plan for Nebraska. Neither these changes, nor the ones made in response to comments or to changes in the Federal certification rule, substantially change the basic design or operation of the Federal plan. Therefore, further public comment on this plan is not necessary.

Accordingly, the Regional Administrator, Region VII, hereby gives notice that the Federal plan for the State of Nebraska, as amended, is effective upon signature of this notice.

Dated: September 21, 1978.

KATHLEEN O. CAMIN,
Regional Administrator,
Region VII.

[FR Doc. 78-28831 Filed 10-12-78; 8:45 am]

[6560-01-M]

[FRL 986-3; OPP-180239]

OKLAHOMA DEPARTMENT OF AGRICULTURE

Issuance of Specific Exemption To Use Botran 75W To Control Sclerotinia Blight on Peanuts

The Environmental Protection Agency (EPA) has granted a specific exemption to the Oklahoma Department of Agriculture (hereafter referred to as the "Applicant") to use Botran 75W for the control of *Sclerotinia* Blight on 15,000 acres of peanuts in 10 counties in Oklahoma. This exemption was granted in accordance with, and is subject to, the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street SW., room E-315, Washington, D.C. 20460.

According to the Applicant, the *Sclerotinia* Blight which is caused by the plant pathogen *Sclerotinia sclerotiorum* (syn. *S. minor*) is a relatively new disease on peanuts in the United States, being first reported in 1971. *S. sclerotiorum* invades the tap root, lateral branches, and pegs at the soil line and eventually causes rotting of the peanut pods. Cool, wet conditions are optimum for its development. Because of the overhead irrigation system used to grow peanuts in Oklahoma, these conditions exist and 30,000 acres of peanuts in the counties of Bryan, Caddo, Carter, Grady, Hughes, Johnson, Lincoln, Love, Marshall, and Stephens are infected with this pathogen. Since the peanut growing season is close to completion, the Applicant stated that only 15,000 acres could be treated this year.

There are no EPA-registered fungicides for the control of *S. sclerotiorum* on peanuts. Several fungicides have been tested and shown to be effective for the control of *Sclerotinia* Blight on peanuts. Pentachloronitrobenzene (PCNB) when used at maximal label rates did control *S. sclerotiorum* in some instances, but not in others. Multiple applications of Benomyl also provided adequate control. Neither of these fungicides is registered although PCNB has a registration for peanut pod rot complex. Botran 75W has been shown to be efficacious for control of *S. sclerotiorum*. In addition, Botran 75W is registered for the control of *Sclerotinia* on several vegetable crops (beans, celery, cucumbers, lettuce, onions, and potatoes).

The Applicant will use Botran 75W, manufactured by the Upjohn Company, containing the active ingredient 2,6-dichloro-4-nitroaniline, in a single application at a dosage rate of 4 pounds of product (3 pounds active ingredient) per acre. Applications of Botran will be made through overhead irrigation sprinkler systems by peanut growers. The diagnosis of this plant pathogen must be made before Botran 75W is applied.

The Applicant estimates that yield losses of about 714 pounds of peanuts per acre, representing a monetary loss of $2,142,000, could occur without a suitable control program.

This use of Botran 75W will not pose a threat to the public health, since the residue expected to occur on peanut meat and hulls (less than 0.1 part per million (ppm)) is insignificant. Treated peanut vines or hay may not be used as livestock feed items.

After reviewing the applications and other available information, EPA has determined that (a) a pest outbreak of *Sclerotinia* Blight has occurred; (b) there is no pesticide presently registered and available for use to control this pest in Oklahoma; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the pest is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until October 7, 1978, to the extent and in the manner set forth in the applications. This specific exemption is also subject to the following conditions:

1. The Upjohn product, Botran 75W, which contains the active ingredient dichloran (2,6-dichloro-4-nitroaniline), is authorized at a dosage rate of 4 pounds product (3 pounds active ingredient) per acre applied via overhead irrigation systems. Up to 15,000 acres of peanuts located in the 10 counties named above may be treated;

2. A single application per acre per season is authorized;

3. Botran 75W is to be used only after the presence of *Scleortinia* Blight is diagnosed in a given area by State Extension personnel;

4. All tail water must be contained when Botran 75W is used in irrigation systems;

5. Growers may apply this pesticide provided pesticide dealers disseminate copies of the proper procedures to be followed in applying Botran 75W under this specific exemption. Agricultural Extension agents, plant pathologists, and peanut specialists shall be available to assist growers;

6. All label precautions, directions, and restrictions must be adhered to;

7. Botran 75W-treated peanut fields must not be grazed nor shall the treated vines be used as a feed item;

8. A pre-harvest interval of 30 days shall be observed;

9. A residue level of 2,6-dichloro-4-nitroaniline in or on peanut meat and hulls not exceeding 0.1 ppm has been deemed adequate to protect the public health. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

10. The EPA shall be immediately informed of any adverse effects resulting from the use of Botran 75W in

connection with this specific exemption; and

11. A final report, which summarizes the results of this program, must be submitted to the EPA by May 31, 1979. This report shall include, but is not limited to, the following information: (a) what residues of dichloran occurred in peanuts treated with Botran 75W via irrigation systems; and (b) the degree of control of *Sclerotinia* Blight achieved by this method of applying Botran 75W.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).)

Dated: October 5, 1978.

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

[FR Doc. 78-28832 Filed 10-12-78; 8:45 am]

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

FM BROADCAST APPLICATION READY AND AVAILABLE FOR PROCESSING

Adopted: October 6, 1978.

Released: October 10, 1978.

Cutoff Date: November 15, 1978.

Notice is hereby given that the FM broadcast application listed below will be considered as ready and available for processing on November 16, 1978. Since the listed application is timely filed and mutually exclusive with the earlier-filed and cutoff application of Poet's Seat Broadcasting, Inc. (File No. BPH-10440), no other applications which involve conflict with these applications may be filed. Rather, the purpose of this Notice is to establish a date by which the parties to the forthcoming comparative hearing may compute the deadlines for filing amendments as a matter of right under § 1.522(a)(2) of the rules and pleadings to specify issues pursuant to § 1.584.

BPH-10660—(new) Greenfield, Mass., Green Valley Broadcasting, Req: 95.3 MHz, No. 237; .315 kW; 777 feet

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-28954 Filed 10-12-78; 8:45 am]

[6712-01-M]

[BC Docket No. 78-326; File No. BRCT-746; FCC 78-674]

FAITH CENTER, INC.

Order and Notice of Apparent Liability; Designating Applications for Hearing on Stated Issues

Adopted: October 2, 1978.

Released: October 11, 1978.

1. The Commission has before it for consideration the captioned application and its inquiries into the operation of Station KHOF-TV, San Bernardino, Calif., licensed to Faith Center, Inc.

2. Information before the Commission raises serious questions as to whether the captioned applicant possesses the qualifications to be or remain the licensee of the captioned station. In view of these questions, the Commission is unable to find that a grant of the Station KHOF-TV license renewal application would serve the public interest, convenience and necessity, and must, therefore, designate the application for hearing.

3. *Accordingly, it is ordered,* That the captioned application is designated for hearing pursuant to section 309(e) of the Communications Act of 1934, as amended, at a time and place to be specified in a subsequent Order, upon the following issues:

(a) To determine all the facts and circumstances surrounding Faith Center, Inc.'s, failure to permit Commission access to certain licensee books, records, and employees.

(b) To determine whether Faith Center, Inc., failed to submit information requested by the Commission in the Commission's letter dated June 15, 1978.

(c) To determine whether in its over-the-air fund-raising broadcasts, Faith Center, Inc., violated, or is in violation of, Title 18, United States Code Section 1343.

(d) To determine, in light of the evidence adduced under the preceding issues, whether the applicant possesses the requisite qualifications to be or to remain a licensee of the Commission, and whether a grant of the captioned application would serve the public interest, convenience and necessity.

4. *It is further ordered,* That the Chief, Broadcast Bureau, is directed to serve upon the captioned applicant within thirty (30) days of the release of this Order, a Bill of Particulars with respect to Issues (a), (b) and (c).

5. *It is further ordered,* That if it is determined that the hearing record does not warrant an Order denying the captioned application for renewal of license for Station KHOF-TV, it shall also be determined whether the applicant has violated Title 18 U.S.C. 1343. If so, it shall also be determined whether an Order of Forfeiture pursuant to section 503(b) of the Communications Act of 1934, as amended, in the amount of $20,000 or some lesser amount, should be issued for any such violations.

6. *It is further ordered,* That this document constitutes a Notice of Apparent Liability for forfeiture for violation of Title 18 U.S.C. 1343. The Commission has determined that, in every case designated for hearing involving revocation or denial of renewal of license for alleged violations which also come within the purview of section 503(b) of the Act, it shall, as a matter of course, include this forfeiture notice so as to maintain the fullest possible flexibility of action. Since the procedure is thus a routine or standard one, we *stress* that the inclusion of this notice is not to be taken as in any way indicating what the initial or final disposition of the case should be; that judgment is, of course, to be made on the facts of each case.

7. *It is further ordered,* That the Broadcast Bureau proceed with the initial presentation of the evidence with respect to issues (a), (b), and (c) and the applicant then proceed with its evidence and have the burden of establishing that it possesses the requisite qualifications to be a licensee of the Commission and that a grant of its application would serve the public interest, convenience, and necessity.

8. *It is further ordered,* That to avail itself of the opportunity to be heard, the applicant herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall file with the Commission, within twenty (20) days of the mailing of this Order, a written appearance in triplicate, stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

9. *It is further ordered,* That the applicant herein, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, shall give notice of the hearing within the time and in the manner prescribed in such rule and shall advise the Commission thereof as required by § 1.594(g) of the rules.

10. *It is further ordered,* That the Secretary of the Commission send a copy of this Order by Certified Mail, Return Receipt Requested to Faith Center, Inc., licensee of Station KHOF-TV, San Bernardino, Calif.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-28956 Filed 10-12-78; 8:45 am]

[6712-01-M]

[SS Docket Nos. 78-318, 78-319; File Nos. 176-A-L-58, 221-A-L-68]

TRANS REGIONAL AIR AND CITY OF BIG SPRING

Order Designating Applications for Consolidated Hearing on Stated Issues

Adopted: September 29, 1978.

Released: October 5, 1978.

In re applications of Trans Regional Air Big Spring, Tex., SS Docket No. 78-318, File No. 176-A-L-58; city of Big Spring, Big Spring, Tex., SS Docket No. 78-319, File No 221-A-L-68; for an aeronautical advisory station to serve the Big Spring Municipal Airport, Big Spring, Tex.

1. The City of Big Spring, Tex. (hereinafter called The City) and Trans Regional Air (hereinafter called Trans Regional) have both filed applications to operate an aeronautical advisory station at Big Spring Municipal Airport, Big Spring, Tex. In that § 87.251(a) of the Commission's rules provides that only one aeronautical advisory station may be authorized at a landing area, the above applications are mutually exclusive. Accordingly, it is necessary to designate these applications for comparative hearing in order to determine which, if any, should be granted.

2. On July 17, 1978, the Commission issued a license to Trans Regional Airlines to operate Aeronautical Advisory Station WQT 4 at the Big Spring Municipal Airport. The City of Big Spring, Tex., in a letter dated July 20, 1978, stated that they never received written notice that Trans Regional Air was intent on filing an application for the Aeronautical Advisory Station at Big Spring Municipal Airport. Since § 87.251(b) of our rules requires that each applicant give written notice of their intent to file an application for an Aeronautical Advisory station to the owner of the landing area and all aviation service organizations on the landing area the authorization to operate Station WQT 4 from July 17, 1978, to July 17, 1983, was set aside on July 28, 1978, pursuant to § 1.113 of our rules.[1]

3. The City filed its application for an aeronautical advisory station on July 28, 1978. This application became mutually with Trans Regional's application assuming that notice was not, in fact, given to the City by Trans Regional. In this connection Trans Regional maintains that notice was given and the City's position is that it never received notice. If it is determined in this proceeding that Trans Regional did, in fact, give the City notice then the City would not be entitled to file a competing application under the "cut-off" rules (§ 1.227) and the station authorization (WQT 4) previously granted to Trans Regional and set aside by the Commission should be reinstated nunc pro tunc. On the other hand, if it is determined that Notice was not given as alleged by the City then the applications are mutually exclusive and subject to a comparative hearing. Appropriate issues follow to resolve this matter.

4. In view of the foregoing: *It is ordered*, That pursuant to the provisions of section 309(e) of the Communications Act of 1934, as amended, and § 0.331 of the Commission's rules, the above-captioned applications are hereby designated for hearing in a consolidated proceeding at a time and place to be specified in a subsequent Order on the following issues:

a. To determine if Trans Regional Air gave the City of Big Spring written notice of their intent to file an application for an Aeronautical Advisory station at Big Spring Municipal Airport as required by § 87.251(b) of our rules, and if not;

b. To determine which applicant would provide the public with better aeronautical advisory service based on the following considerations;

(1) Location of the fixed-base operation and proposed radio station in relation to the landing area and traffic patterns;

(2) Hours of operation;

(3) Personnel available to provide advisory service;

(4) Experience of applicant and employees in aviation and aviation communications, including but not limited to operation of stations in the Aviation Services (Part 87) that may be or have been authorized to the applicant;

(5) Ability to provide information pertaining to primary and secondary communications as specified in § 87.257 of the Commission's rules;

(6) Proposed radio system including control and dispatch points; and

(7) The availability of the radio facilities to other fixed-base operators; and,

c. To determine if Trans Regional's failure to give notice was willful and if so the effect of such conduct on its ability to be a licensee of a Unicom station at Big Spring Municipal Airport;

d. To determine in light of the evidence adduced on the foregoing issues which of the applications should be granted.

4. *It is further ordered*, That the burden of proof and the burden of proceeding with the introduction of evidence is on each applicant with respect to its application except issues (a) and (c) where the burdens are on Trans Regional and issue (d) which is conclusory.

5. *It is further ordered*, That to avail themselves of an opprotunity to be heard, Trans Regional and The City, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall within 20 days of the mailing of this order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date set for hearing and present evidence on the issues specified in this order. Failure to file a written appearance within the time specified may result in dismissal of the application with prejudice.

CARLOS V. ROBERTS,
Chief, Safety and Special Radio Services Bureau.

[FR Doc. 78-28955 Filed 10-12-78; 8:45 am]

[1] Section 1.113 Action modified or set aside by person, panel, or board reads in part "Within 30 days after public notice has been given of any action taken pursuant to delegated authority, the person, panel, or board taking the action may modify or set it aside on its own motion."

[6720-01-M]

FEDERAL HOME LOAN BANK BOARD

FEDERAL SAVINGS AND LOAN ADVISORY COUNCIL

Notice of Meeting

OCTOBER, 3,1978.

Pursuant to section 10(a) of Pub. L. 92-463, entitled the Federal Advisory Committee Act, notice is hereby given of the meeting of the Federal Savings and Loan Advisory Council on Monday, November 13; Tuesday, November 14; and Wednesday, November 15, 1978. The meeting will commence at 9 a.m. on November 13, 14, and 15 at the Federal Home Loan Bank Board, 1700 G Street NW., Washington, D.C. in the sixth floor Board Room.

MONDAY, NOVEMBER 13

9 a.m.—General Discussion.
9:20 a.m.—Bank Board Goals.
10:30 a.m.—Dividend Equalization Program.
Inclusion of FHA and VA in Scheduled Items.
Reserve Earmarking Requirements.
Review of Federal Reserve Rule Allowing Automatic Transfers.
1 p.m.—Acceptable Collateral for Treasury Tax and Loan Accounts
Appraisal Distribution Regulation and Alternatives Thereto.
90 percent loans to Owner-Occupied 3-4 Family Units.
Mortgage Revenue Bond Issues.
Implementation of the Community Investment Fund.
Money Market Certificates.
Underwriting Guidelines.
Review of Examination Procedures.
Deferred Fees and Acquisition Credits.
Commercial Bank Ownership in the Federal Home Loan Mortgage Corporation.
Retirement Savings Accounts.
Associations With Similar Names.

TUESDAY, NOVEMBER 14

9 a.m.—Continued discussion of Monday afternoon topics.
1 p.m.—General discussion.

WEDNESDAY, NOVEMBER 15

9 a.m.—General discussion.

The meeting of the Federal Savings and Loan Advisory Council is open to the public.

ROBERT H. MCKINNEY,
Chairman.

[FR Doc. 78-28860 Filed 10-12-78; 8:45 am]

[6730-01-M]

FEDERAL MARITIME COMMISSION

COLLECTIVE BARGAINING AGREEMENTS

Notice of Temporary Exemption

Notice is hereby given that on October 3, 1978, the Commission determined the following collective bargaining agreements to be temporarily exempt from the filing and approval requirements of section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814), pending FEDERAL REGISTER notice, opportunity for comment, and subsequent determination by the Commission that the agreements (or any specific provision thereof) should be permanently exempt from the filing and approval requirements of section 15 of the Shipping act, 1916, or should be approved, disapproved or modified under that section. This action was taken in accordance with our interim policy statement—collective bargaining agreements, served June 12, 1978. This temporary exemption is effective until January 11, 1979.

Interested parties may inspect the agreements at the Washington Office of the Federal Maritime Commission, 1100 L Street NW., room 10218; or at the field offices located at New York, NY., New Orleans, La., San Francisco, Calif., Chicago, Ill., and San Juan, P.R. Comments on the agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Comments should include facts and arguments concerning the exemption, approval, modification or disapproval of the proposed agreements. Comments shall discuss with particularity allegations that the agreements are unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operate to the detriment of the commerce of the United States, or are contrary to the public interest, or are in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No.: LM-23, as amended and supplemented, between the International Longshoremen's & Warehousemen's Union and the Pacific Maritime Association.

Filing party: R. Frederic Fisher, Esquire, Lillick, McHose & Charles, Two Embarcadero Center, San Francisco, Calif. 94111.

Summary: The following agreements constitute the 1978-1981 collective bargaining agreement between the International Longshoremen's & Warehousemen's Union (ILWU) and the Pacific Maritime Association (PMA) concerning ILWU watchmen in San Francisco, Los Angeles and Long Beach, Calif.:

LM-23: Agreement dated September 5, 1973;
LM-23-1: Memorandum of understanding dated August 18, 1975;
LM-23-2: Memorandum of understanding dated August 15, 1978;
LM-23-3: August 15, 1978, letter agreement confirming certain understandings reached during the 1978 ILWU-PMA watchmen's negotiations;
LM-23-A: ILWU-PMA watchmen pension plan agreement; and
LM-23-B: First amended ILWU-PMA watchmen pension fund-declaration of trust.

By order of the Federal Maritime Commission.

Dated: October 10, 1978.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-28872 Filed 10-12-78; 8:45 am]

[4110-03-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 76P-0163]

IDENTITY AND QUALITY STANDARD FOR CANNED PINEAPPLE JUICE

Amended Notice of Interim Standards

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document modifies the advice given in the partial confirmation notice, previously published, that pineapple juice from concentrate should contain an amount of soluble solids equivalent to that of the single strength pineapple juice from which the concentrate was prepared. This document advises that pineapple juice from concentrate may be marketed at 12.5° Brix or more pineapple juice soluble solids. This advice on the appropriate soluble solids level is an interim measure pending a decision as to whether a hearing will be necessary to resolve issues raised by objections to the 132.5° Brix minimum pineapple juice soluble solids which would have been required by the final regulation.

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: In the FEDERAL REGISTER of March 14, 1978 (43 FR 10552), the Commissioner of Food and Drugs issued a notice of partial confirmation of effective date and stay of one provision of the final regulation amending the standards of identity (21 CFR 146.185(a)) and quality (21 CFR 146.185(b)) for canned pineapple juice. Based upon an objection and request for a hearing, the effective date of the 13.5° Brix minimum pineapple juice soluble solids requirement for pineapple juice from concentrate in the standard of quality published in the FEDERAL REGISTER of May 28, 1976 (41 FR 21768) was stayed pending a determination of whether a public hearing is necessary to resolve the issue raised by the objection. The Commissioner advised that, pending final resolution of the issue, he would consider pineapple juice from concentrate to be misbranded if the level of pineapple juice soluble solids is not equivalent to that in the single strength pineapple juice from which the concentrate was prepared.

In regard to this advice on the interim requirement, the Pineapple Growers Assn. of Hawaii (PGAH) submitted a comment stating that the soluble solids of pineapple juice is at a constantly changing Brix as it is being processed into concentrated pineapple juice in a "continuous system." Consequently, PGAH asserted it is not practical to reconstitute pineapple juice from concentrate to a soluble solids level equivalent to that of the juice from which the concentrate was prepared. PGAH stated that the juice is fed continuously into the evaporator at approximately 100 gallons per minute and, therefore, the Brix of the juice being concentrated is constantly fluctuating. PGAH requested that, in view of the impracticality of the interim requirement, the March 14, 1978 notice be amended by deleting the requirement and establishing in its place a 12.5° Brix minimum soluble solids requirement for "pineapple juice from concentrate" pending the resolution of the issue resulting from the objection. Juice Bowl Products, Inc., the objector to the original 13.5° Brix minimum soluble solids requirement, has advised the Food and Drug Administration that it does not object to the PGAH request.

The Commissioner has considered the request submitted by PGAH regarding the interim soluble solids level for pineapple juice from concentrate. He believes that pineapple juice from concentrate will be misbranded if it is not reconstituted to a reasonable approximation of the Brix level of the pineapple juice from which it is made.

He is persuaded that 12.5° Brix minimum pineapple soluble solids level can be considered a reasonable approximation of the Brix level as an interim matter pending a decision on whether a hearing is necessary. Therefore, he modifies the advice provided in the partial confirmation of effective date by advising that pineapple juice from concentrate will not be regarded as misbranded if it has a minimum Brix level of 12.5°. The food should also be labeled in accordance with 21 CFR 146.185(b)(3).

Dated: October 4, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner 04for Regulatory Affairs.

[FR Doc. 78-28698 Filed 10-12-78; 8:45 am]

[4110-03-M]

MICROBIOLOGY DEVICES SECTION OF THE IMMUNOLOGY AND MICROBIOLOGY DEVICES PANEL

Meeting Cancellation

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Microbiology Devices Section of the Immunology and Microbiology Devices Panel meeting announced by a notice in the FEDERAL REGISTER of September 22, 1978 (43 FR 43068), for October 31, and November 1, 1978, has been cancelled.

FOR FURTHER INFORMATION CONTACT:

William C. Dierksheide, 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.

Dated: October 5, 1978.

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

[FR Doc. 78-28699 Filed 10-12-78; 8:45 am]

[4110-83-M]

Health Resources Administration

EXPANDED FUNCTION DENTAL AUXILIARY TRAINING GRANTS

Application Announcement

The Bureau of Health Manpower, Health Resources Administration, announces that applications for fiscal year 1979 Grants for Expanded Function Dental Auxiliary (EFDA) training are now being accepted under authority of section 783 of the Public Health Service Act, Title VII.

Section 783 authorizes the Secretary to make grants to public and non-profit private schools of dentistry, or other public or non-profit private entities, which have programs for the training of dental hygienists or dental assistants, to meet the cost of projects to: plan, develop and operate or maintain programs for the educational preparation of dental hygienists and dental assistants to be efficient members of the dental health care team, who can perform legally delegated expanded functions under supervision of the dentist.

These educational entities shall offer ongoing educational programs which extend for at least one academic year and consist of supervised clinical practice and at least four (4) months (in the aggregate) of classroom instruction and plan to enroll not less than eight (8) students for expanded functions training.

All public and non-profit private schools of dentistry or other public or non-profit private entities, which have programs for the training of dental hygienists or dental assistants and which are accreddited by the Commission on Accreditation for Dental and Dental Auxiliary Educational Programs, within the United States, its territories and possessions are eligible to apply.

Based on the proposed appropriation for the EFDA program and projected requirements for continuation grants, and estimated $300,000 will be available for competitive grant awards in Fiscal Year 1979.

Requests for application materials and questions regarding grants policy should be directed to:

Grants Management Officer,
Bureau of Health Manpower,
Health Resources Administration,
Center Building, Room 4-27,
3700 East-West Highway,
Hyattsville, Maryland 20782,
Phone: 301-436-6564.

To be considered for fiscal year 1979 funding, completed applications must be postmarked no later than November 30, 1978, and sent to the Grants Management Officer at the above address.

Should additional program information be required, please contact:

Education Development Branch,
Division of Dentistry,
Bureau of Health Manpower,
Health Resources Administration,
Center Building, Room 3-30,
3700 East-West Highway,
Hyattsville, Maryland 20782,
Phone: 301-436-6514

Dated: October 3, 1978.

HENRY A. FOLEY,
Administrator,
Health Resources Administration.

[FR Doc. 78-29037 Filed 10-12-78; 8:45 am]

[4110-08-M]

Public Health Service

NATIONAL INSTITUTES OF HEALTH

Statement of Organization, Functions, and Delegations of Authority

Part H, chapter HN (National Institutes of Health) of the statement of organization, functions, and delegations of authority for the Department of Health, Education, and Welfare (40 FR 22859, May 27, 1975, as amended most recently at 43 FR 4114, January 31, 1978) is amended to reflect the establishment of the Office for Medical Applications of Research (HNA9) within the Office of the Director, National Institutes of Health (NIH). This Office will play an important role in increasing the timely and effective transfer of research knowledge into health practice.

Sec. HN-B, Organization and Functions, is amended as follows:

(1) Under the heading Office of the Director (HNA), insert the following statement after the statement for the Division of Scientific Reports (HNA83):

Office for Medical Applications of Research (HNA9): (1) Advises the Director, NIH, and his senior staff, and provides guidance to the bureaus, institutes, and divisions on medical applications of research; (2) coordinates, reviews, and facilitates the systematic identification and evaluation of clinically relevant NIH research program information; (3) promotes the effective transfer of this information to the health care community and through the PHS Office of Health Technology (OHT) to those agencies requiring such information; (4) provides a link between technology assessment activities of the bureaus, institutes, and divisions of the NIH and the OHT; and (5) monitors the effectiveness and progress of the assessment and transfer activities of the NIH.

Dated: October 4, 1978.

LEONARD D. SCHAEFFER,
Assistant Secretary for Management and Budget.

[FR Doc. 78-29033 Filed 10-12-78; 8:45 am]

[4110-08-M]

National Institutes of Health

ADVISORY COMMITTEES

Filing of Annual Reports

Pursuant to sections 10(d) and 13 of the Federal Advisory Committee Act, Pub. L. 92-463, notice is hereby given that the annual reports for the com-

mittees listed below have 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, or on weekdays, at the Department Library, North Building, room 1436, Washington, D.C. 20201, between 9 a.m. and 4:30 p.m.

Advisory Committee To The Director, NIH.
Aging Review Committee.
Allergy and Clinical Immunology Research Committee.
Allergy and Immunology Study Section.
Animal Resources Advisory Committee.
Applied Physiology and Orthopedics Study Section.
Arteriosclerosis and Hypertension Advisory Committee.
Artificial Kidney-Chronic Uremia Advisory Committee.
Bacteriology and Mycology Study Section.
Behavioral Sciences Research Contract Review Committee.
Bioanalytical and Metallobiochemistry Study Section.
Biochemistry Study Section.
Biomedical Library Review Committee.
Biometry and Epidemiology Contract Review Committee.
Biophysics and Biophysical Chemistry A Study Section.
Biophysics and Biophysical Chemistry B Study Section.
Biopsychology Study Section.
Biotechnology Resources Advisory Committee.
Bladder and Prostatic Cancer Review Committee.
Blood Diseases and Resources Advisory Committee.
Board of Regents of the National Library of Medicine.
Board of Scientific Counselors, Division of Cancer Biology and Diagnosis.
Board of Scientific Counselors, Division of Cancer Cause and Prevention.
Board of Scientific Counselors, Division of Cancer Treatment.
Board of Scientific Counselors, NEI.
Board of Scientific Counselors, NHLBI.
Board of Scientific Counselors, NIA.
Board of Scientific Counselors, NIAID.
Board of Scientific Counselors, NIAMDD.
Board of Scientific Counselors, NICHD.
Board of Scientific Counselors, NIDR.
Board of Scientific Counselors, NIEHS.
Board of Scientific Counselors, NINCDS.
Breast Cancer Task Force Committee.
Cancer and Nutrition Scientific Review Committee.
Cancer Clinical Investigation Review Committee.
Cancer Control and Rehabilitation Advisory Committee.
Cancer Control Community Activities Review Committee.
Cancer Control Grant Review Committee.
Cancer Control Prevention, Detection, Diagnosis, and Pretreatment Evaluation Review Committee.
Cancer Control Treatment, Rehabilitation, and Continuing Care Review Committee.
Cancer Research Manpower Review Committee.
Cancer Special Program Advisory Committee.
Carcinogenesis Program Scientific Review Committee.
Cardiology Advisory Committee.
Cardiovascular and Pulmonary Study Section.
Cardiovascular and Renal Study Section.
Cell Biology Study Section.
Cellular and Molecular Basis of Disease Review Committee.
Clearinghouse on Environmental Carcinogens.
Clinical Applications and Prevention Advisory Committee.
Clinical Cancer Education Committee.
Clinical Cancer Program Project and Cancer Center Support Review Committee.
Clinical Trials Committee.
Clinical Trials Review Committee.
Combined Modality Committee.
Committee on Cancer Immunobiology.
Committee on Cancer Immunodiagnosis.
Committee on Cancer Immunotherapy.
Committee on Cytology Automation.
Communicative Disorders Review Committee.
Communicative Sciences Study Section.
Contraceptive Development Contract Review Committee.
Contrapective Evaluation Research Contract Review Committee.
Dental Caries Program Advisory Committee.
Dental Research Institutes and Special Programs Advisory Committee.
Developmental Therapeutics Committee.
Diagnostic Research Advisory Group.
Endocrinology Study Section.
Epidemiology and Disease Control Study Section.
Epilepsy Advisory Committee.
Ethical Advisory Board.
Experimental Therapeutics Study Section.
Experimental Virology Study Section.
General Clinical Research Centers Committee.
General Medicine A Study Section.
General Medicine B Study Section.
General Research Support Program Advisory Committee.
Genetics Study Section.
Heart, Lung, and Blood Research Review Committee A.
Heart, Lung, and Blood Research Review Committee B.
Hematology Study Section.
Human Development Study Section.
Human Embryology and Development Study Section.
Immunobiology Study Section.
Immunological Sciences Study Section.
Large Bowel and Pancreatic Cancer Review Committee.
Lipid Metabolism Advisory Committee.
Mammalian Cell Lines Committee.
Maternal and Child Health Research Committee.
Medicinal Chemistry A Study Section.
Mental Retardation Research Committee.
Metabolism Study Section.
Microbial Chemistry Study Section.
Microbiology and Infectious Diseases Advisory Committee.
Minority Access to Research Careers Review Committee.
Molecular Biology Study Section.
Molecular Cytology Study Section.
National Advisory Allergy and Infectious Diseases Council.
National Advisory Child Health and Human Development Council.
National Advisory Council on Aging.
National Advisory Dental Research Council.
National Advisory Environmental Health Sciences Council.
National Advisory Eye Council.
National Advisory General Medical Sciences Council.
National Advisory Neurological and Communicative Disorders and Stroke Council.
National Advisory Research Resources Council.
National Arthritis Advisory Board.
National Arthritis, Metabolism, and Digestive Diseases Advisory Council.
National Cancer Advisory Board.
National Commission on Digestive Diseases.
National Diabetes Advisory Board.
National Heart, Lung, and Blood Advisory Council.
Neurological and Communicative Disorders and Stroke Science Information Program Advisory Committee.
Neurological Disorders Program—Project Review A Committee.
Neurological Disorders Program—Project Review B Committee.
Neurological Sciences Study Section.
Neurology A Study Section.
Neurology B Study Section.
Nutrition Study Section.
Oral Biology and Medicine Study Section.
Pathobiological Chemistry Study Section.
Pathology A Study Section.
Pathology B Study Section.
Periodontal Diseases Advisory Committee.
Pharmacology Study Section.
Pharmacology-Toxicology Research Program Committee.
Physiological Chemistry Study Section.
Physiology Study Section.
Population Research Committee.
President's Cancer Panel.
Primate Research Centers Advisory Committee.
Pulmonary Diseases Advisory Committee.
Radiation Study Section.
Recombinant DNA Molecule Program Advisory Committee.
Reproductive Biology Study Section.
Research Manpower Review Committee.
Sickle Cell Disease Advisory Committee.
Social Sciences and Population Study Section.
Surgery and Bioengineering Study Section.
Surgery, Anesthesiology and Trauma Study Section.
Toxicology Study Section.
Transplantation Biology and Immunology Committee.
Tropical Medicine and Parasitology Study Section.
Virology Study Section.
Virus Cancer Program Scientific Review Committee.
Vision Research Program Committee.
Visual Sciences A Study Section.
Visual Sciences B Study Section.

Dated: September 26, 1978.

THOMAS E. MALONE,
Acting Director, NIH.

[FR Doc. 78-28770 Filed 10-12-78; 8:45 am]

[4110-08-M]

ANIMAL RESOURCES ADVISORY COMMITTEE AND PRIMATE RESEARCH CENTERS ADVISORY COMMITTEE

Renewals

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776), the

National Institutes of Health announces the merger on September 2, 1978, by the Secretary, HEW, with the concurrence of the Committee Management Secretariat, of the Animal Resources Advisory Committee and the Primate Research Centers Advisory Committee, and the renewal of these committees as one under the new title of the Animal Resources Review Committee.

Authority for the above committee will expire on March 2, 1979, unless the Secretary formally determines that continuance is in the public interest.

Dated: September 26, 1978.

THOMAS E. MALONE,
Acting Director, NIH.

[FR Doc. 78-28771 Filed 10-12-78; 8:45 am]

[4110-08-M]

BOARD OF SCIENTIFIC COUNSELORS, NEI

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Eye Institute, December 18 and 19, 1978, Building 31, room 6A-35, National Institutes of Health, Bethesda, Md.

This meeting will be open to the public on December 18 from 8:30 a.m. until 2:30 p.m. for general remarks by the Institute Director on matters concerning the intramural programs of the National Eye Institute. Attendance by the public will be limited to space available.

In accordance with provisions set forth in section 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on December 18 from 2:30 p.m. until adjournment and the entire day on December 19 for review, discussion, and evaluation of individual projects conducted by the Laboratory of Vision Research, NEI. This evaluation and discussion could reveal personal information concerning individuals associated with the projects. Consequently, this meeting is concerned with matters exempt from mandatory disclosure.

Mr. Julian Morris, Chief, Office of Program Planning and Scientific Reporting, National Eye Institute, Building 31, room 6A-25, telephone 301-496-5248 will furnish summaries of the meeting and rosters of committee members.

Substantive program information may also be obtained from Dr. Carl Kupfer, Director, National Eye Institute, Building 31, room 6A-03, telephone 301-496-2234, National Institutes of Health, Bethesda, Md. 20014.

Dated: October 5, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc. 78-28774 Filed 10-12-78; 8:45 am]

[4110-08-M]

BOARD OF SCIENTIFIC COUNSELORS, NICHD

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Child Health and Human Development, November 13, 1978, in Building 31, room 2A-52. This meeting will open to the public from 9 a.m. to 3 p.m. on November 13 for the review of the NICHD Intramural Research Programs. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 3 p.m. to adjournment on November 13 for the review, discussion, and evaluation of individual programs and projects conducted by the National Institutes of Health, NICHD, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Marjorie Neff, Committee Management Officer, NICHD, Building 31, room 2A-04, National Institutes of Health, Bethesda, Md., area code 301, 496-1848, will provide a summary of the meeting and a roster of Board members. Dr. James Sidbury, Scientific Director, NICHD, Building 31, room 2A-50, National Institutes of Health, Bethesda, Md., area code 301, 496-2133, will furnish substantive program information.

Dated: September 27, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

[FR Doc. 78-28769 Filed 10-12-78; 8:45 am]

[4110-08-M]

CLEARINGHOUSE ON ENVIRONMENTAL CARCINOGENS

Cancellation and Rescheduling of Subgroup Meetings

Notice is hereby given of the cancellation and rescheduling of meetings of Subgroups of the Clearinghouse on Environmental Carcinogens which were published in the FEDERAL REGISTER on September 5, 1978 (43 FR 39431). The October 25, 1978 meeting of the Experimental Design Subgroup has been cancelled. The meeting of the Data Evaluation/Risk Assessment Subgroup, scheduled for October 26, 1978, will now meet on October 25, 1978, at the Holiday Inn of Bethesda, 8110 Wisconsin Avenue, Bethesda, Md. 20014. The meeting will be entirely open to the public from 9 a.m. to adjournment. Attendance will be limited to space available. For further information, please contact Dr. James A. Sontag, Executive Secretary, Building 31, room 3A16, National Institutes of Health, Bethesda, Md. 20014, 301-496-5108.

Dated: October 3, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

[FR Doc. 78-28765 Filed 10-12-78; 8:45 am]

[4110-08-M]

CLINICAL CANCER EDUCATION COMMITTEE

Meeting

Pursuant to Pub. L. 92- 463, notice is hereby given of the meeting of the Clinical Cancer Education Committee, National Cancer Institute, November 1-2, 1978, Landow Building, Conference room A, 7910 Woodmont Avenue, Bethesda, Md. 20014. The meeting will be open to the public on November 1, 1978, from 8:30 a.m.-9:30 a.m. to review administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in section 552b(c)(6), Title 5, United States Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on November 1, 1978, from 9:30 a.m.-5:00 p.m., and on November 2, 1978 from 8:30 a.m. until adjournment, for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal personal information concerning individuals associated with the applications.

Mrs. Marjorie F. Early, Committee Management Officer, National Cancer Institute, Building 31, room 4B43, National Institutes of Health, Bethesda, Md. 20014 301-496-5708 will provide summaries of the meeting and a roster of committee members, upon request.

Dr. Margaret H. Edwards, Executive Secretary, National Cancer Institute, Westwood Building, room 10A18, National Institutes of Health, Bethesda, Md. 20014 301-496-7761 will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13. 398, National Institutes of Health.)

Dated: September 27, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

[FR Doc. 78-28767 Filed 10-12-78; 8:45 am]

[4110-08-M]

GRANT APPLICATIONS

Notice of Meetings for Review

Pursuant to Pub. L. 92-463, notice is hereby given of the meetings of committees advisory to the National Cancer Institute.

These meetings will be open to the public to discuss administrative details or other issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available.

These meetings will be closed to the public as indicated below in accordance with the provisions set forth in sections 552b(c)(4) and 552(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, for the review, discussion and evaluation of individual grant applications, as indicated. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and pesonal information concerning individuals associated with the applications.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, room 4B43, National Institutes of Health, Bethesda, Md. 20014 301-496-5708 will furnish summaries of the meetings and rosters of committee members, upon request. Other information pertaining to the meeting can be obtained from the Executive Secretary indicated. Meetings will be held at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Md. 20014, unless otherwise stated.

Name of Committee: Large Bowel and Pancreatic Cancer Review Committee (Pancreatic Subcommittee).
Dates: November 1, 1978; 8:30 a.m.
Place: Continental Plaza Hotel, 909 Michigan Avenue, Chicago, Ill. 60611.
Times: Open—November 1, 8:30 a.m. to 10 a.m. Closed—November 1, 10:30 a.m. to adjournment.
Closure Reason: To review research grant applications.
Executive Secretary: Dr. William E. Straile. Address: Westwood Building, room 853, National Institutes of Health. Phone: 301-496-7194.

(Catalog of Federal Domestic Assistance Nos. 13.393, 13.394, 13.395 National Institutes of Health.)

Name of Committee: Cancer Clinical Investigation Review Committee.
Dates: November 6-7, 1978; 9 a.m.
Place: Building 31C, Conference Room 6, National Institutes of Health.
Times: Open—November 6, 9 a.m. to 12:30 p.m. Closed—November 6, 1:30 p.m. to 5 p.m. Closed—November 7, 8:30 a.m. to adjournment.
Closure Reason: To review research grant applications.
Executive Secretary: Mr. C. W. White. Address: Westwood Building, room 819, National Institutes of Health. Phone: 301-496-7481.

(Catalog of Federal Domestic Assistance No. 13.395 National Institutes of Health.)

Name of Committee: Clinical Cancer Program Project and Cancer Center Support Review Committee (Cancer Center Support Review Subcommittee).
Dates: November 16, 1978; 8:30 a.m.
Place: Linden Hill Hotel, Terrace Room, 5400 Pooks Hill Road, Bethesda, Md. 20014.
Times: Open—November 16, 8:30 a.m. to 10 a.m. Closed—November 16, 10 a.m. to adjournment.
Closure Reason: To review research grant applications.
Executive Secretary: Dr. Robert L. Manning. Address: Westwood Building, room 803, National Institutes of Health. Phone: 301-496-7721.

(Catalog of Federal Domestic Assistance No. 13.397 National Institutes of Health.)

Name of Committee: Bladder and Prostatic Cancer Review Committee (Prostatic Subcommittee).
Dates: November 17, 1978; 8 a.m.
Place: Holiday Inn (Pennsylvania Conference Room), 8120 Wisconsin Avenue, Bethesda, Md. 20014.
Times: Open—November 17, 8 a.m. to 9 a.m. Closed—November 17, 9 a.m. to adjournment.
Closure Reason: To review research grant applications.
Executive Secretary: Dr. Andrew Chiarodo. Address: Westwood Building, room 853, National Institutes of Health. Phone: 301-496-7194.

(Catalog of Federal Domestic Assistance Nos. 13.393, 13.394, 13.395 National Institutes of Health.)

Dated: September 27, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc. 78-28768 Filed 10-12-78; 8:45 am]

[4110-08-M]

NATIONAL CANCER ADVISORY BOARD AND PRESIDENT'S CANCER PANEL

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Cancer Advisory Board and the President's Cancer Panel, November 20-21, 1978, National Institutes of Health, Building 31C, Conference Room 6, Bethesda, Md.

The entire meeting will be open to the public from 9 a.m. to adjournment. Agenda items include presentations and discussions of the programs of the Division of Cancer Treatment and the Division of Cancer Biology and Diagnosis, NCI; a report on training (Pathobiology Workshop); immunoprevention; and the NCI Science Content Analysis System. Attendance by the public will be limited to space available.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, room 4B43, National Institutes of Health, Bethesda, Md. 20014 301-496-5708 will provide summaries of the meeting, substantive program information, and rosters of Board and Panel members.

Dated: October 5, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institute of Health.

[FR Doc. 78-28773 Filed 10-12-78; 8:45 am]

[4110-08-M]

NATIONAL CANCER INSTITUTE COMMITTEES

Renewal

Pursuant to the Federal Advisory Committee Act of October 6, 1972, (Pub. L. 92-463, 86 Stat. 770-776), the Director, National Institutes of Health, announces the renewal by the Director, NCI, of the following committees:

COMMITTEE AND TERMINATION DATE

Cancer Control and Rehabilitation Advisory Committee, September 22, 1980.
Clinical Cancer Education Committee, September 22, 1980.
Cancer Control Community Activities Review Committee (renamed Cancer Control Merit Review Committee), September 22, 1980.

Authority for these committees will expire on the dates indicated, unless renewed by appropriate action as authorized by law.

Dated: September 26, 1978.

THOMAS E. MALONE,
Acting Director, NIH.

[FR Doc. 78-28772 Filed 10-12-78; 8:45 am]

[4110-08-M]

RECOMBINANT DNA ADVISORY COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Recombinant DNA Advisory Committee at the National Institutes of Health, Building 1, Wilson Hall, 9000 Rockville Pike, Bethesda, Md. 20014, on October 30-31, 1978, from 9 a.m. to 5 p.m.

The entire meeting will be open to the public for consideration of:

Report of Working Group on Lower Eukaryotic Host-Vector Systems.
Report of Working Group on Prokaryote Host-Vectors Other Than *E. coli* K-12.
Organisms that exchange genetic information.
Review of protocols for required containment levels.

Requests for lowering of containment levels on the basis of characterization of clones.
Other matters requiring necessary action by the Committee.

Attendance by the public will be limited to space available. Dr. William J. Gartland, Executive Secretary, Recombinant DNA Advisory Committee, National Institutes of Health, Building 31, room 4A52, telephone 301-496-6051, will provide materials to be discussed at the meeting, rosters of committee members, and substantive program information. A summary of the meeting will be available at a later date.

Dated: October 3, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

[FR Doc. 78-28766 Filed 10-12-78; 8:45 am]

[4510-08-M]

REPORT ON BIOASSAY OF 3-AMINO-9-ETHYLCARBAZOLE (HYDROCHLORIDE) FOR POSSIBLE CARCINOGENICITY

Availability

3-Amino-9-ethylcarbazole (hydrochloride) (CAS 132-32-1) has been tested for cancer-causing activity with rats and mice in the Bioassay Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay of 3-Amino-9-ethylcarbazole (hydrochloride) for possible carcinogenicity was conducted by administering the test chemical in feed to Fischer 344 rats and B6C3F1 mice. Both the free amine form and the hydrochloride salt were used. Applications of the chemical include use as an intermediate in the manufacture of dyes.

It is concluded that under the conditions of this bioassay, 3-Amino-9-ethylcarbazole (hydrochloride) was carcinogenic for the liver, inducing hepatocellular carcinomas in Fischer 344 rats and B6C3F1 mice of both sexes. Other tumors induced in the rats were carcinomas or papillomas of the integumentary system in males, carcinomas of the Zymbal's gland of the ear in males and females, and adenocarcinomas of the uterus.

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 Number 13.393, Cancer Cause and Prevention Research.)

Dated: October 5, 1978.

DONALD S. FREDERICKSON,
Director, National Institutes of Health.

[FR Doc. 78-28777 Filed 10-12-78; 8:45 am]

[4110-08-M]

REPORT ON BIOASSAY OF 1 - AMINO - 2 - METHYLANTHRAQUINONE FOR POSSIBLE CARCINOGENICITY

Availability

1-Amino-2-methylanthraquinone (CAS 82-28-0) has been tested for cancer-causing activity with rats and mice in the Bioassay Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay for possible carcinogenicity of technical-grade 1-amino-2-methylanthraquinone was conducted using Fischer 344 rats and B6C3F1 mice. Applications of the chemical include use as a dye and as an intermediate in dye manufacture. 1-amino-2-methylanthraquinone was administered in the feed, at either of two concentrations, to groups of 45 to 50 males and females of each species.

Under the conditions of this bioassay, 1-amino-2-methylanthraquinone was carcinogenic in Fischer 344 rats, inducing hepatocellular carcinomas in rats of both sexes, and kidney tumors in male rats. The compound was carcinogenic in female B6C3F1 mice, producing an increased combined incidence of hepatocellular carcinomas and neoplastic nodules.

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 Number 13.393, Cancer Cause and Prevention Research)

Dated: October 5, 1978.

DONALD S. FREDRICKSON,
Director, National Institutes of Health.

[FR Doc. 78-28775 Filed 10-12-78; 8:45 am]

[4110-08-M]

REPORT ON BIOASSAY OF 3-(CHLOROMETHYL)PYRIDINE HYDROCHLORIDE FOR POSSIBLE CARCINOGENICITY

Availability

3-(Chloromethyl)pyridine hydrochloride (CAS 6959-48-4) has been tested for cancer-causing activity with rats and mice in the Bioassay Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay of 3-(chloromethyl)pyridine hydrochloride for possible carcinogenicity was conducted by administering the test chemical by gavage to Fischer 344 rats and B6C3F1 mice. Applications of the chemical include use in manufacturing of a variety of chemicals.

It is concluded that under the conditions of this bioassay, 3-(chloromethyl)pyridine hydrochloride was carcinogenic in male Fischer 344 rats and in B6C3F1 mice of both sexes, producing papillomas and carcinomas at the site of topical application, the stomach.

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 Number 13.393, Cancer Cause and Prevention Research)

Dated: October 5, 1978.

DONALD S. FREDRICKSON,
Director, National Institutes of Health.

[FR Doc. 78-28776 Filed 10-12-78; 8:45 am]

[4110-85-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Assistant Secretary for Health

TECHNICAL CONSULTANT PANEL ON THE HEALTH INTERVIEW SURVEY OF THE U.S. NATIONAL COMMITTEE ON VITAL AND HEALTH STATISTICS

Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of October 1978:

Name: Technical consultant Panel on the Health Interview Survey of the U.S. National Committee on Vital and Health Statistics.
Date and Time: October 24-25, 1978, 9 a.m.
Place: Room 727-A, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, D.C. 20001.
Open for entire meeting.
Purpose: The Technical consultant Panel on the Health Interview Survey is to examine the Health Interview Survey in order to assess whether it is meeting its goal in particular areas of data collection and analysis.
Agenda: The Technical Consultant Panel will discuss the following agenda items: (1) Draft outline of the final report on recommendations of the TCP regarding the Health Interview Survey; (2) items of concern to OMB and other issues not specifically addressed in the draft final report including: (a) timeliness issues; (b) periodicity of data; and (c) coordination and/or

consolidation of the Health Interview Survey with Health and Nutrition Examination survey (HANES).

The meeting is open to the public for observation and participation. Anyone wishing to participate, obtain a roster of members, or other relevant information, should contact Mr. James A. Smith, National Center for Health Statistics, Room 2-12, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, telephone 301-436-7122.

Agenda items are subject to change as priorities dictate.

Date: October 4, 1978.

WAYNE RICHEY, Jr.,
Associate Director for Management, Office of Health Policy Research and Statistics.

[FR Doc. 78-29121 Filed 10-12-78; 8:45 am]

[4110-92-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Human Development Services

Federal Council on the Aging

Meeting

The Federal Council on the Aging was established by the 1973 amendments to the Older Americans Act of 1965 (Pub. L. 93-29, 42 U.S.C. 3015) for the purpose of advising the President, the Secretary of Health, Education, and Welfare, the Commissioner on Aging, and the Congress, on matters relating to the special needs of Older Americans.

Notice is hereby given pursuant to the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C. app. 1, sec. 10, 1976) that the Council will hold a meeting on October 26 and 27, 1978 from 9:30 a.m. to 5 p.m., Room 5051, HEW-North Building, 330 Independence Avenue SW., Washington, D.C. 20201.

The Agenda will consist of a report from the Executive Committee of the Council on priorities and resources needed for Council work in fiscal year 1979. Up-dated reports will be given by the Committee on Senior Services, the Committee on Long Term Care, the Committee on Policy Development and Program Evaluation; and the Committee on Special Aging Populations. The Council will also further review and discuss the requirements of the new AOA legislation that have Council implications. Finally, the Council will consider additional plans for carrying out assigned responsibilities in program review and initiation in the field of aging.

Further information on the Council may be obtained from the FCA Secretariat, Federal Council on the Aging, Washington, D.C. 20201, telephone 202-245-0441. FCA meetings are open for public observation.

Dated: September 28, 1978.

NELSON H. CRUIKSHANK,
Chairman, Federal Council on the Aging.

[FR Doc. 78-29031 Filed 10-12-78; 8:45 am]

[4110-02-M]

Office of the Secretary

OFFICE OF EDUCATION

Statement of Organization, Functions, and Delegations of Authority

Part EE.10 of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health, Education, and Welfare is amended to reflect several changes in the organization of the Office of Education. The major emphasis is the creation of two Executive Deputy Commissioners, one for Educational programs and the other for Management, Budget, and Evaluation, to whom the the Commissioner of Education will delegate the responsibility for day-by-day operation of the Office of Education.

The specific changes are as follows:

(1) The Bureau of Postsecondary Education is retitled the Bureau of Higher and Continuing Education and its functional statement published at 39 FR 14739 (April 26, 1974) is deleted and replaced by the following:

The Bureau of Higher and Continuing Education formulates policy for, directs and coordinates activities of the elements of the Office of Education which deal with programs for assistance to postsecondary educational institutions, students and international education.

(2) The title and statement for the Division of Education Replication, Bureau of Elementary and Secondary Education, published at 41 FR 31931 (July 30, 1976), are deleted in their entirety.

(3) The title and statement for the Division of Education Systems Development, Bureau of Occupational and Adult Education, published at 39 FR 14738 (April 26, 1974), are deleted in their entirety.

(4) The following title and statement are to be added immediately after the title and statement for the Division of International Education, Bureau of Higher and Continuing Education:

Division of Educational Systems Development (EEPE). Administers programs of financial support: To institutions of higher education, States, and local educational agencies for demonstration projects designed to reduce the number of elementary and secondary school dropouts; and to Teacher Centers where elementary and secondary teachers may develop curriculum and receive training to improve their skills. Provides professional advice and developmental assistance to the education community on strategies for dropout prevention and the reform of training programs for the education profession.

(5) The title and statement for the Office of Planning, published at 38 FR 32154 (November 21, 1973), are deleted in their entirety.

(6) The title of the Office of Planning, Budgeting, and Evaluation is changed to the Office of Evaluation and Dissemination and the functional statement published at 40 FR 52657 (November 11, 1975) is deleted and replace by the following:

The Office of Evaluation and Dissemination has responsibility for evaluating the effectiveness of Office of Education programs and coordinating the dissemination of exemplary materials to State and local education agencies.

Designs, directs the conduct of, and reports the results from, national evaluations of Office of Education programs. Following Departmental procedures, interfaces with ASE, ASPE, OMB, and GAO, the Educational Data Acquisition Council (EDAC), and the Committee of Evaluation and Information Systems (CEIS) of the Council of Chief State School Officers on all matters relating to education program evaluation. Prepares summaries of completed evaluations for dissemination. Supplies advice and recommendations on matters of policy, budget, legislation, and program operation to the Commissioner for Legislation based on the results of evaluation studies.

Develops strategies and supports activities to assure widespread dissemination of exemplary projects and programs, and assists in their replication by State and local education agencies.

Conducts historical studies of the Office of Education and administers the OE oral history project.

(7) The title and statement for the Division of Planning and Budgeting, published at 40 FR 52657 (November 11, 1975), are deleted in their entirety.

(8) The following title and statement are added immediately after the title and statement for the Division of Occupational, Handicapped, and Developmental programs, Office of Evaluation and dissemination: *Division of Educational Replication (EEFR).* Develops and implements policies concerning the dissemination and diffusion activities administered by the Office of Education. Has primary operational resonsibility for programs to facilitate the adoption of successful educational practices, including the National Diffusion Network. Maintains the master file of, and dissemi-

nates information on, all projects approved by the Education Division's Joint Dissemination Review Panel. Supports and promotes the dissemination and implementation of Program Information Packages (PIPS) developed by the Division of Elementary and Secondary programs.

(9) The following title and statement are to be inserted immediately after the title and statement for the Editorial Services Division, Office of Public Affairs:

OFFICE OF THE EXECUTIVE DEPUTY COMMISSIONER FOR EDUCATIONAL PROGRAMS (EEB)

Provides executive policy leadership, direction, and integration to the operation of the educational programs of the Office of Education and oversees the administration of the headquarters Bureaus and the Regional Offices of Educational programs. Serves as a principal advisor to the Commissioner on the development, formulation, adoption, and execution of policies in the field of education. Represents the Commissioner and the Office of Education in top-level relationships with members of the educational community. Administers the arts in education, energy education, and women's educational equity programs.

(10) The following titles and statements are to be added immediately after the title and statement for the right to read program:

OFFICE OF THE EXECUTIVE DEPUTY COMMISSIONER FOR MANAGEMENT, BUDGET, AND EVALUATION

Directs the evaluation of the impact of Federal education programs and other agency dissemination efforts. Provides leadership to long-range planning efforts. Determines goals, priorities, and timeframes to assure maximum achievement of program objectives. Serves as a principal advisor to the Commissioner on the development, formulation, adoption, and execution of policies in the field of education. Represents the Commissioner and the Office of Education in top-level relationships with members of the education community. Serves as the principal advisor to the Commissioner on matters of administrative management and regulations development.

DIVISION OF PLANNING AND BUDGETING (EEEB)

Is responsible for preparing and defending the forward plan and annual budget estimates of the Office of Education, including necessary liaison with the Office of the Assistant Secretary for Education, the Office of the Secretary, DHEW, the Office of Management and Budget, and in cooperation with appropriate HEW staff, the Appropriations and Budget Committees of the Congress. Implements major planning and budgetary decisions including the assurance that program budgets are congruent with overall agency goals, objectives and priorities. Develops analysis of program issues and integrates policy analyses with budget proposals. Receives all funds appropriated or transferred to the Office of Education and issues allotments and limitations to the subdivisions of the Office. Administers the antideficiency regulations.

DIVISION OF AUDITS AND APPEALS (EEEC)

Responsible for coordination of audit matters between Office of Education operating units and audit organizations. Assists OE units in the timely and appropriate disposition of audit reports. Assists OE and client organizations in identifying ways in which management improvements can be made to avoid future audit problems. Provides administrative support for the Office of Education Hearing Board which provides due process for educational agencies and institutions contesting adverse findings by Federal fiscal and education program officials.

DIVISION OF REGULATIONS MANAGEMENT (EEER)

Insures by establishing policies and standards and by providing guidance and interpretations and monitoring and evaluations, that the Agency is effectively developing regulatory documents necessary for operations within the requirements of law. Develops policies, systems, methods, and procedures for the development and processing of regulatory documents of the Agency. Serves as the Agency monitor and coordination point for compliance activities as required by the Administrative Procedures Act of 1946 and Section 431, General Education Provisions Act including the schedule of dates for the publication of regulations. Insures that all regulatory documents conform to Agency policies, Department requirements, and the requirements of the Office of the Federal Register, the Advisory Commission on Intergovernmental Relations and the Office of Management and Budget.

(11) Part EE.50 (formerly 2-F), order of succession, published at 36 FR 20551 (October 23, 1971), is deleted and replaced by the following:

EE.50 *Order of succession.* During the absence or disability of the Commissioner of Education, or in the event of a vacancy in that position, the first official listed below who is available shall act as Commissioner, except during a period of planned absence for which a different order has been designated under (b) below:

(a)(1) Executive Deputy Commissioners in order of the seniority of their appointments as Deputy Commissioners or, in the event of concurrent appointments, in order of the seniority of their appointments to the Office of Education;

(2) Bureau Deputy Commissioners in order of the seniority of their appointments as Deputy Commissioners or, in the event of concurrent appointments, in order of the seniority of their appointments to the Office of Education;

(b) For a planned period of absence, the Commissioner may specify a different order of succession.

Dated: September 28, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc. 78-29032 Filed 10-12-78; 8:45 am]

[4310-02-M]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

ROSEBUD INDIAN RESERVATION, S. Dak.

Ordinance Legalizing the Introduction, Sale, or Possession of Intoxicating Beverages—Amendment

SEPTEMBER 27, 1978.

This notice is published in accordance with authority delegated by the Secretary of the Interior to the Assistant Secretary— Indian affairs, by 230 DM 2, and in accordance with the Act of August 15, 1953, Pub. L. 277, 83d Congress, 1st Session, (67 Stat. 586). I certify that the following resolution and ordinance amending ordinance No. RB 74-20 relating to the application of the Federal Indian liquor laws on the Rosebud Indian Reservation, S. Dak., was adopted on December 16, 1977, and amended on June 29, 1978, by the Rosebud Sioux Tribal Council, which has jurisdiction over the area of Indian country included in the resolution and ordinance, reading as follows:

RICK C. LAVIS,
Acting Assistant Secretary—Indian Affairs.

RST RESOLUTION No. 77-111

Whereas the Rosebud Sioux Tribe has presently in effect in its tribal law and order code chapters 17, 18, 19, 20, 21, 22, and 23 dealing generally with liquor sales on the Rosebud Indian Reservation, which chapters correspond to and are identical with chapter I, II, III, IV, V, VI, and VII of tribal liquor control ordinance No. RB74-20;

Whereas the Rosebud Sioux Tribal Council is of the opinion that liquor licenses should be issued to persons and/or corporations other than the

Rosebud Sioux Tribe or communities of the Rosebud Indian Reservation;

Whereas there are some questions as to whether or not the present tribal law and order code within the aforementioned chapters would allow licenses to issue other than to the Rosebud Sioux Tribe or communities of the Rosebud Indian Reservation;

Whereas liquor sales on the Rosebud Indian Reservation are being made without any regulations by the Rosebud Sioux Tribe;

Whereas those selling liquor on the Rosebud Sioux 0Pi142°Indian Reservation should be required to carry insurance to pay those persons harmed by intoxicated persons.

Therefore, be it resolved, That the Rosebud Sioux Tribal Council repeals chapter 17 of the Rosebud Sioux Tribal Law and Order Code entitled "Alcoholic Beverages" and enacts in lieu thereof chapter 17 entitled "Alcoholic Beverages" which is attached hereto and incorporated herein as if specifically set out.

It is further resolved, That chapter 18 of the Rosebud Sioux Tribal Law and Order Code entitled "Local Option and Community Involvement" is repealed.

It is further resolved, That chapter 19 of the Rosebud Sioux Tribal Law and Order Code entitled "Liquor Licenses and Sales" is repealed and in lieu therof the Rosebud Sioux Tribal Council hereby enacts chapter 19 entitled "Liquor Licenses and Sales" which is attached hereto and incorporated herein as if specifically set out.

It is further resolved, That chapters 20 and 21 of the Rosebud Sioux Tribal Law and Order Code entitled "Low Point Beer" and "Sales Tax" are repealed.

It is further resolved, That chapters 22 and 23 of the Rosebud Sioux Tribal Law and Order Code entitled, respectively, "Age Requirements," and "Profits, Repealing, and Amendments," shall remain in effect as previously enacted.

CERTIFICATION

This is to certify that the above resolution 77-111 was duly passed by the Rosebud Sioux Tribal Council by a vote of twenty-two (22) in favor, five (5) opposed, and three (3) not voting. The said resolution was adopted pursuant to authority vested in the council. A quorum was present at the meeting conducted on December 16, 1977.

ED DRIVING HAWK,
President,
Rosebud Sioux Tribe.

Attest: John King, Jr., Secretary, Rosebud Sioux Tribe.

CHAPTER 17—ALCOHOLIC BEVERAGES

1. This ordinance shall be cited as the "Rosebud Sioux Tribal Liquor Ordinance," and under the inherent sovereignty of the Rosebud Sioux Tribe shall be deemed an exercise in the police power of the tribe for the protection of the welfare, health, peace, morals, and safety of the people of the tribe, and all its provisions shall be liberally construed for the accomplishment of its purpose, and its is declared to be public policy that the sale of alcoholic beverages is so affected with the public interest that it should be regulated to the extent of prohibiting all traffic in it, except as provided in this ordinance.

2. It shall be unlawful to sell, offer, keep for sale, or possess intoxicating liquor or low-point beer except upon the terms, conditions, limitations, and restrictions specified in this ordinance.

3. There is hereby created a Rosebud Sioux Tribal Liquor Commission to administer and enforce the laws of the tribe concerning intoxicating liquor and low-point beer. The principal place of business of the Department shall be at Rosebud, S. Dak., and suitable quarters of offices shall be provided for the Department by the Rosebud Sioux Tribal Council.

4. There is hereby created with the Department a Rosebud Sioux Liquor Commission composed of three members. No person may be a member of the Commission if such person or any member of his or her immediate family is also a member of the Rosebud Sioux Tribe governing body or has an interest directly or indirectly in the production, transportation, or sale of intoxicating liquor or low-point beer, or in any building or property in any way used in connection with any such business. The commission shall be held strictly accountable for the enforcement of all the provisions of this ordinance and shall be directly responsible to the Rosebud Sioux Tribal Council.

(a) *Appointment-term-qualifications-compensation.* Appointments to the commission shall be for terms of 3 years and shall be made by a majority vote of the Rosebud Sioux Tribal Council. Members of the commission shall be appointed so that one member's term in office expires on January 1 of each year. Members of the commission shall be chosen on the basis of ability and may be reappointed for one additional term. Each member appointed shall received full compensation for their services in addition to reasonable and necessary expenses incurred while attending meetings. Vacancies shall be filled by a majority vote of the Rosebud Sioux Tribal Council only for the unexpired portion of the vacant position.

(b) *Bonds.* Each member of the commission shall post a bond in such amount and with such sureties as the tribal council shall approve to guarantee to the tribe the proper handling and accounting of such moneys, merchandise, and other properties as may be required in the administration of this ordinance.

(c) *Commssion meetings.* The Commission shall meet at least once per month and each year shall select one of is members as chairman, which member shall serve in such capacity for the succeeding year. Special meetings of the commission may be called by the chairman or when any two members file with the chairman a written request for a meeting. Written notice of the time and place of each meeting shall be given to each member of the commission and the president of the Rosebud Sioux Tribe. All commission meetings shall be held within the reservation. Two members of the commission shall constitute a quorum.

5. The tribal council shall hire under contract a director who in no event shall be a member of the commission nor shall such a person be appointed if he or a member of his or her immediate family is a member of the Rosebud Sioux Tribe governing body or has an interest directly or indirectly in the production, transportation, or sale of intoxicating liquor or low-point beer, or in any building or property in any way used in connection with any such business. Such director's original contract shall be for a duration of 1 year and may be renewed on a yearly basis thereafter. The director's salary shall be in such amount as may be determined by the Rosebud Sioux Tribal Council. The director shall be qualified, in a managerial ability or in experience to perform his duties; and shall act in the name of and serve at the pleasure of the tribal council, but shall be directly responsible to the commission.

The director shall devote such time as necessary to the discharge of his duties. He shall not accept or solicit, directly or indirectly, contributions or anything of value in behalf of himself, any special interest group on the reservation, any political party, or any person seeking an elective or appointive office nor use his official position to advance the candidacy of anyone seeking an elective or appointive office. The director must physically reside on the Rosebud Reservation. A violation of this section may subject the director to removal from office.

6. Members of the commission, the director and other employees of the Department shall be allowed their actual and necessary expenses while traveling on business of the Department outside of their place of residence on the reservation, however, an

itemized account of such expenses shall be verified by the claimant and certified by the director. If such account is paid, copies of the same shall be filed with the Department and be and remain a part of its permanent records. All expenses (and salaries) of commission members, the director and other employees shall be paid from appropriations for such purposes.

7. Any commission member or the director shall be removed for cause and such removal shall not be in lieu of any other punishment that may be prescribed by the laws of the tribe or the United States. Any member or director so removed shall be entitled to an opportunity to be heard before the tribal council before removal.

8. No commission member, director, or employee of the Department shall be personally liable for damages sustained by any person due to the act of such member, officer, or employee performed in the reasonable discharge of his duties in accordance with the provisions of this ordinance.

9. No person responsible for the administration or enforcement of this chapter and any other provision of this ordinance, shall accept or solicit donations, gratitudes, political advertising, gifts, or other favors directly or indirectly, from any liquor licensee or vendor.

10. The commission shall have the following duties and powers:

(1) To direct the director to perform any of the functions specified in this ordinance or by the tribal council;

(2) To purchase alcoholic beverages for resale by the Department in the manner set forth in this ordinance;

(3) At the direction of the tribal council, to establish, maintain, or discontinue tribal liquor stores and determine the location of such stores;

(4) To rent, lease, or equip any building or any land necessary to carry out the provisions of this ordinance;

(5) To lease all plants and lease or buy equipment necessary to carry out the provisions of this ordinance;

(6) To appoint vendors, clerks, or agents or other employees required for carrying out the provisions of this chapter; to dismiss such employees for cause; and to designate their title, duties, and powers;

(7) To accept applications and grant licenses provided for by this ordinance;

(8) To investigate any violation of the provisions of this ordinance within twenty (20) days from receipt of information or complaint of such violation; and

(9) The commission shall have such other powers and duties necessary and proper to carry out the provisions of this ordinance.

11. The commission may adopt and promulgate, with the approval of the tribal council, such rules and regulations that are necessary to carry out the provisions.

12. The Rosebud Sioux Tribal Council shall, when it deems advisable to do so, direct the tribal liquor commission to establish and maintain anywhere on the Rosebud Sioux Indian Reservation a tribal liquor store or stores for the sale of alcoholic beverages in accordance with provisions of this ordinance. The commission may, from time to time, fix the prices of the different classes, varieties, or brands of alcoholic liquor and low-point beer to be sold.

13. In directing the Rosebud Sioux Tribal Liquor Commission to operate a liquor store within a particular geographical area, the Rosebud Sioux Tribal Council shall indicate whether or not any other liquor stores shall be permitted to operate in the same area. If other licenses are not permitted, no other licenses shall be granted for that area.

14. Upon the granting of an application for a license by the Rosebud Sioux Tribe, all similar licenses existing in that area terminate 30 days therafter. No similar licenses shall be granted thereafter for that area unless the Rosebud Sioux Tribal Council specifically permits.

15. The Rosebud Sioux Tribe shall acquire the stock, equipment, and fixtures from any licensee whose license has been terminated by reason of the tribal monopoly, such acquisition to be by purchase, condemnation, or arbitration.

16. In the conduct and management of tribal liquor stores the Commission is empowered to emplyoy a person who shall be under the direct supervision of the Director, and who shall observe all provisions of this ordinance and rules and regulations that may be prescribed by the Commission under this ordinance.

17. There shall be charged a filing fee of $300 for an application for a class A license, $250 for a class B license, and $125 for a class C license.

18. No license for a class A, B, or C license as the same are defined and classified under the provisions of this ordinance shall be granted to an applicant for any such license, except after public hearing, upon notice, as provided hereinafter in this chapter. The Commission shall make findings of fact in either rejecting or granting the application.

Any person whose application for license is rejected shall have the right to appeal such decision to the Rosebud Sioux Tribal Court. The appeal must be filed within 5 days after receipt of notice from the Commission. The Commission shall forthwith, upon such appeal being made, certify to the tribal court the complete record and findings of fact. The court shall thereupon fix a time and place for hearing and notice of which hearing shall be given to all the parties to the appeal.

The appeal shall be conducted by the tribal court in the same manner as an appeal from the termination of a license. If any reason under law exists for rejection of the application for license, the decision of the Commission must be affirmed.

19. If any tribal member of any community as recognized by the constitution or by laws or ordinances of the Rosebud Sioux Tribe shall file with the Commission a written request that he or she be notified of the time and place of hearing upon any specified application for a liquor license, the Director shall give notice to such person by certified mail and within a sufficient length of time prior to the hearing upon such application as to allow such person a reasonable opportunity to be present. For the purposes of this section, the certified letter must be deposited with the U.S. Post Office at least five (5) days before the scheduled date of the hearing.

20. The Commission shall fix the time and place for hearing upon all such applications which may come before the Commission and the Director shall publish notice once in the official newspaper of such community which notice shall be headed "Notice of Hearing Upon Application for Sale of Alcoholic Beverages," and shall state the time and place when and where such applications will be considered by the Commission and that any person interested in the approval or rejection of any such application may appear and be heard, which notice shall be published at least one week prior to such hearing. At the time and place so fixed, the Commission shall consider such applications and all objections thereto, if any, prior to final decision thereon.

21. No license granted pursuant to the provisions of this ordinance shall be transferred. If a transfer to a new location is requested by a licensee, the licensee must make application showing all the relevant facts as to such new location, which application shall take the same course and be acted upon as if an original application. No fee shall be required of a licensee who desires to transfer to a new location, however, such licensee must pay the actual costs involved in the notification of hearing as published in the official newspaper.

22. Any licensee authorized to deal in alcoholic beverages upon termination of its license may at any time within twenty (20) days thereafter sell the whole or any part of the alcoholic beverages included in its stock in trade at the time of termination to any licensee under the provisions of this ordinance. A complete report of such

purchase and sale must be made by both the purchaser and licensee to the Commission. At the discretion of the Commission, an additional twenty (20) days extension to sell may be granted to the licensee by the Commission.

23. Any person may file with the Commission a duly notarized complaint as to any violations of the provisions of this ordinance and immediately upon receipt thereof, the Commission shall cause the Director to make a thorough investigation and, if there is evidence to support the charge made in such complaint, the Commission must cause a revocation of the license in question and/or take other appropriate action.

24. The Commission shall upon complaint or its own motion, on due notice to such licensee, conduct a hearing and on the basis thereof determine whether such license should be revoked.

25. For the purpose of conducting the hearing as prescribed above, the Commission shall have the power to subpena witnesses and to administer oaths. Witnesses so subpenaed shall be paid to the then prevailing witness rate for the Rosebud Sioux Tribal Court. Criminal proceedings must be filed in tribal court and may be instituted by the Commission or Director as complainant against any violator.

26. If the Commission determines the license should not be revoked, it shall dismiss the complaint. If the Commission determines the license should be revoked, and revokes such license, it must make, in writing, findings of fact as to every such violation alleged in such complaint before it revokes such license. It must, in addition, by the time of the next Tribal Council meeting, make a report to the Tribal Council.

27. The Commission may, if the facts warrant, mitigate the revocation to a suspension. When in any proceeding upon a verified complaint, the Commission is satisfied that the nature of such violation and the circumstances thereof are such that a suspension of the license would be adequate, it may suspend the license for a period not exceeding sixty (60) days, which suspension shall become effective 24 hours after service of notice thereof upon the licensee. During the period of such suspension such licensee shall exercise no rights or privileges whatsoever under the license.

28. All hearings under the provisions of this ordinane shall be public and place of hearing shall be specifically designated in the notice of hearing. It shall be permissable, when due notice has been given, for the Commission to hold hearings in the community hall of the community wherein the license is operative.

29. In any case where the Commission approves the revocation of a license, it shall forthwith make an order for such revocation and upon service of notice thereof on the licensee all of such licensee's rights under such license shall terminate three (3) days after such notice, except in the event of a stay on appeal.

30. Any licensee, except the Rosebud Sioux Tribe, whose license is revoked shall not for a period of two (2) years thereafter be granted any license under the provisions of this ordinance.

31. Any licensee whose license is revoked by the Commission regardless of how the proceedings were instituted may appeal from such revocation to the Rosebud Sioux Tribal Court within five (5) days after notice to the licensee of such revocation, and such appeal operates to stay all proceedings for a period of fifteen (15) days thereafter and for such an additional period of time that the Rosebud Sioux Tribal Court may in its discretion extend. Under no circumstances may the tribal court extend the stay for a period of more than twenty-five (25) days including the original fifteen (15) days stay period. The Commission shall forthwith, upon such appeal being made, certify to the tribal court a complete record in the proceedings and the court shall thereupon fix a time and place for hearing and notice of which hearing shall be given to all concerned parties involved in the appeal. For the purpose of appeal under this ordinance, the appeal shall be heard by all duly qualified and selected judges of the Rosebud Sioux Tribal Court sitting as one body.

32. Upon appeal the tribal court judges shall review the record as certified by the Commission and shall then immediately during that court date enter an order either affirming or reversing the decision revoking such license. In reaching its determination the tribal court judges shall not hear any testimony, but shall examine the record as certified by the commission as to whether it disclosed evidence of any violation of law or rules or regulations charged in the complaint, and if the certified record so disclosed a violation of law, the court is bound to affirm the decision of the Commission. An appeal will be denied unless a clear majority of the tribal judges sitting on the appeal vote for reversal. In the event of a tie, the actions of the Commission shall be affirmed and the license revoked.

33. Any person who, by himself, or through another acting for him shall keep or carry on his person, or in a vehicle, or leave in a place for another to secure, any alcoholic liquor or low-point beer with the intent to sell of dispense of such liquor or low-points beer or otherwise in violation of law, or who shall, within this reservation in any manner, directly or indirectly, solicit, take, or accept any order for the purchase, sale, shipment, or delivery of such alcoholic liquor or low-point beer in violation of law, or aid in the delivery and distribution of any alcoholic liquor or low-point beer to any person under legal age for any purpose except as authorized and permitted in this ordinance, shall be guilty of bootlegging and upon conviction thereof shall be subject to a fine of not less than $300 nor more than $500 and to a jail sentence of not less than three (3) months nor more than six (6) months or both such fine and jail sentence plus costs.

34. Any person violating any provision of this ordinance for which a specific penalty is not provided shall be punished by a fine of not less than $150 nor more than $500 or by imprisonment in the Tribal jail for not more than six (6) months, or by both such fine and imprisonment plus costs.

35. Terms used in this ordinance, unless the context otherwise plainly requires, shall mean as follows:

(1) Alcoholic beverages—any intoxicating liquor, low-point beer or any wine.

(2) Application—a formal written request for the issuance of a license supported by a verified statement of facts.

(3) Foreign corporation—any corportation not incorporated under the laws of the Rosebud Sioux Tribe.

(4) Immediate family—shall mean and include as defined under both the Anglo-American and Lakota systems of jurisprudence but is not limited to, the following relationships: grandparents, parents, spouses, sons, daughters, grandchildren, fathers-in-law, mothers-in-law, brothers-in-law, sisters-in-law, aunts, uncles, and cousins, in addition to all lineal and collateral relatives whether in the whole or half blood or adopted.

(5) Low-point beer—any liquid commonly used or reasonably adapted to use for beverage purposes and which is produced wholly or in part from brewing of any grain or grains or malt substitute, and which contains any alcohol whatsoever but no more than three and two-tenths per centum of alcohol by weight.

(6) Low-point license—authority to sell only low-point beer.

(7) On sale—the selling of any alcohol beverages for consumption on the premises where sold.

(8) On sale license-authority to sell any alcoholic beverage for consumption on the premises where sold.

(9) Package dealer—any person or corporation that sells or keeps for sale any alcoholic beverage for consumption off the premises where sold.

(10) Package dealer license—authority to sell any alcoholic beverage off the premises where sold.

(11) Public place—shall mean any place, building or conveyance to which the public has or is permitted access.

(12) Sale—the transfer, for consideration, of title to any alcoholic beverage.

(13) Wine—any beverage containing alcohol obtained by the fermentation of natural sugar contents of fruits or other agricultural products.

Chapter 18—Local Option and Community Involvement

Repealed.

Chapter 19—Liquor Licenses and Sales

1. The power to establish categories of licenses and levy taxes with respect to the sale of alcoholic beverages is vested exclusively with the Rosebud Sioux Tribal Council.

2. Classes of licenses under this chapter, with the fee for each class, shall be as follows:

(a) Class A—Package dealer—$2,500.

(b) Class B—On sale—$1,500.

(c) Class C—Low point—$750.

3. In accepting or rejecting a request for a license, the Tribal Liquor Commission shall consider the need of the area to be served for such liquor sales, the number of existing licensed businesses covering the area, the desires of the community within the area to be served, any law enforcement problem which may arise because of the sale of liquor, the character and reputation of the person seeking the license, suitability of the physical premises and plan of operation of the person seeking the license, and any other consideration relevant to the request.

4. Any corporation seeking a license for the sale of liquor must be a corporation organized under the laws of the Rosebud Sioux Tribe; provided, however, that if the applicant is a foreign corporation, it shall be eligible if, prior to the application, it has complied with the laws of the Rosebud Sioux Tribe and the United States concerning doing business within the Rosebud Reservation. Both corporations and individuals, prior to making application for a liquor license, must have secured an Indian traders license.

5. Any license issued must be in the name of one person only.

6. Applications for licenses under this chapter shall be submitted to the Tribal Liquor Commission as specified and established. The commission shall have absolute discretion to approve or disapprove the same in accordance with the provisions governing its administration.

7. Every application for a license, unless exempted by the Tribal Council for good reason, must be accompanied by a bond, which shall become operative and effective upon the issuing of a license unless the licensee already has a continuing bond in force. The bond shall be in the amount of $10,000 and must be on a form approved by the Tribal Liquor Commission. It shall be conditioned that the licensee will faithfully obey and abide by all the provisions of this ordinance and all existing laws relating to the conduct of its business and will promptly pay to the Rosebud Sioux Tribe when due all taxes and licensee fees payable by it under the provisions of this ordinance and any costs assessed against it in any judgment for violation of the terms of this ordinance. All bonds required by this ordinance shall be with a corporate surety as surety, or shall be by cash deposit. If said bond is placed by cash, it shall be kept in a separate escrow account within a legally chartered bank.

8. Every application for a license must be accompanied by a policy of insurance indicating that the insurance company will promptly pay all sums, not exceeding $100,000 per person, which the applicant shall become legally obligated to pay as damages because of bodily injury, property damage, or death proximately caused to himself or others by any person who becomes intoxicated by the consumption of alcohol sold by the applicant.

9. Any person injured by reason of the failure of any licensee to faithfully obey and abide by all the provisions of this ordinance shall have a direct right of acting upon the bond in tribal court for the purpose of recovering the damage sustained by such person, which action may be prosecuted in the name of the person injured. Any person suffering bodily injury, property damage, or death proximately caused by any person becoming intoxicated by the consumption of alcohol sold by the applicant shall have a cause of action against the applicant for such damage sustained.

10. Every application for a license under this ordinance must include an agreement by the applicant that his premises, for the purpose of search and seizure laws of the Rosebud Sioux Tribe, shall be considered public premises, and that such premises and all buildings, safes, cabinets, lockers, and store rooms thereon will at all times on demand of the Tribal Liquor Commission or a duly appointed tribal or Federal policemen, be open to inspection, and that all its books and records dealing with the sale or ownership of alcoholic beverages shall be open to said person or persons for such inspection, and that the application and the license issued thereon shall constitute a contract between the licensee and the Rosebud Sioux Tribe entitling the Tribal Liquor Commission, for the purpose of enforcing the provisions of this ordinance, to inspect the premises and books at any time.

11. The period covered by licenses under this ordinance shall be for the period of one year from the date that the license was first issued.

12. The provisions of this ordinance, except as otherwise provided, shall not apply to the purchase and sale of sacramental wines. Ordained rabbis, priests, ministers, or pastors of any church or established religious organizations within the Rosebud Sioux Indian Reservation may buy sacramental wines from any person in such quantities as necessary for their religious purposes only.

13. No licensee under this ordinance shall make any delivery of alcoholic beverages outside the premises described in the license.

14. No licensee shall buy or sell any package which has previously contained alcoholic beverages sold under the provisions of this ordinance or refill any such package.

15. No licensee shall sell any alcoholic liquor to: (1) Any person under the age of 19 years (2) any person who is intoxicated at the time or who is known to the licensee or his help to be a habitual drunkard (3) any person to whom the licensee has been requested in writing not to make any sale of alcoholic liquor, where such request is by the tribal court or the husband or wife of the person (4) any mentally ill or mentally retarded person.

16. No licensee shall permit any person under the age of 19 years on the premises covered by the license.

17. No licensee shall sell, serve, or allow to be consumed on the premises covered by the license, alcoholic beverages other than in the hours permitted by its license.

18. No licensee shall allow any gambling or gambling devices on its premises or permit any lewd or indecent entertainment on said premises.

19. No fighting shall be allowed on the premises covered by the license.

20. All sales of alcoholic liquor shall be for cash only. No licensee shall engage in any pawn business of any kind.

21. No licensee of an on-sale establishment shall allow to be sold any alcoholic beverages in a package, whether sealed or unsealed, or whether full or partially full. Licensee herein includes low-point beer.

22. No licensee of a package establishment shall allow to be consumed on the premises covered by the license any alcoholic beverages.

23. No licensee shall sell liquor within 500 feet of any elementary or secondary educational institution.

CHAPTER 20—LOW-POINT BEER

Repealed.

CHAPTER 21—SALES TAX

Repealed.

CHAPTER 22—AGE REQUIREMENTS

1. *Furnishing beverages to child.* It shall be unlawful to sell or give any alcoholic beverage, except low-point beer, to any person under the age of 21 years, or sell or give to any person under the age of 19 years any low-point beer. Any person who violates this section shall be guilty of an offense and upon conviction therof shall be punished by a fine of not less than $100 nor more than $360 or by imprisonment in the tribal jail for not less than 30 days nor more than 180 days, or by both such fine and imprisonment with costs.

2. *Purchase, possession by minor.* It shall be unlawful for any person under the age of 21 years to purchase, attempt to purchase or possess or consume intoxicating liquor, or to misrepresent his age for the purpose of purchasing or attempting to purchase such intoxicating liquor. Any person who violates any of the provisions of this section shall be guilty of an offense and upon conviction thereof shall be punished by a fine of not less than $50 nor more than $360 or by imprisonment in the tribal jail for a period not less than 30 days nor more than 120 days, or both such fine and imprisonment with costs.

3. *Purchase or possession of low-point beer.* It shall be unlawful for any person under the age of 19 years to purchase, attempt to purchase, possess or consume low-point beer, or to misrepresent his age for the purpose of purchasing or attempting to purchase low-point beer. Any person who violates the provisions of this section shall be guilty of an offense and upon conviction shall be punished by a fine of not less than $50 nor more than $360 or by imprisonment in the tribal jail for not less than 30 days nor more than 120 days, or both such fine and imprisonment with costs.

4. *Evidence of legal age demanded.* Upon attempt to purchase any alcoholic beverages in any tribal or community liquor store by any person who appears to the vendor to be under legal age, such vendor shall demand and the prospective purchaser upon such demand shall display satisfactory evidence that he is of legal age. Any person under legal age who represents to any vendor falsified evidence as to his age shall be guilty of a misdemeanor and upon conviction shall be subject to the penalties specified in section 3 above.

CHAPTER 23—PROFITS, REPEALING, AND AMENDMENTS

1. *Profits from all liquor restricted.* The expenditures of the Tribal Council of all profits realized by the Rosebud Sioux Tribe under the provisions of this ordinance shall be limited to the following in order of priority:

(1) Programs designed to care and provide for the elderly members of the Rosebud Sioux Tribe, *Provided*, That such expenditures shall be supplemental to any funds now provided by the Federal Government regardless of whether such funds are channeled directly from the Federal Govenment to the tribe or though the State of South Dakota.

(2) Programs designed to upgrade the law and order department of the Rosebud Reservation, *Provided*, That such expenditures shall be supplemental to those provided by the Bureau of Indian Affairs and other Federal agencies regardless of whether such funds are channeled directly from the Federal government to the tribe or through the State of South Dakota.

(3) Supplemental grants to tribal members for education; preference to be given in the areas of special and professional education. Grants will stipulate such conditions as are deemed advisable by the Rosebud Sioux Tribal Council.

(4) Programs designed for community development.

2. *Severability.* If any section of any chapter of this ordinance or the application thereof to any party or class, or to any circumstances, shall be held to be invalid for any cause whatsoever, the remainder of the chapter and ordinance shall not be affected thereby and shall remain in full force and effect as though no part thereof has been declared to be invalid.

3. *All prior ordinances and resolutions repealed.* All prior ordinances and resolutions or provisions thereof that are repugnant or inconsistent to any provision of this ordinance are hereby repealed.

4. *Amendment or repeal of ordinance.* This ordinance may be amended or repealed only by a three-fourths vote of the Tribal Council in regular session.

5. *Applicable law.* All acts and transactions under authority of any liquor license issued pursuant to this ordinance shall be in conformity with the laws of the State of South Dakota and shall also be in conformance with this ordinance and the tribal license issued.

6. *Disclaimer.* Nothing set forth in this ordinance shall be construed to authorized criminal jurisdiction by any entity created thereunder or by the Rosebud Sioux Tribal Court over any non-Indian for any violation of any provision of this ordinance.

CERTIFICATION

It is hereby certified that the Rosebud Sioux Tribal Council is the governing body of the Rosebud Indian Reservation of South Dakota composed of 33 members, of which 30 members were present at a regular meeting held on December 16, 1977, when the foregoing ordinance was adopted by the affirmative vote of 22 in favor, 5 opposed, and 3 not voting, and of which 24 members were present at a regular meeting held on June 29, 1978, when the foregoing ordinance as amended was adopted by the affirmative vote of 24 in favor, none opposed, and none not voting.

EDWARD DRIVING HAWK,
President
Rosebud Sioux Tribe.

Attest: John King, Jr., Secretary, Rosebud Sioux Tribe.

[FR Doc. 78-28861 Filed 10-12-78; 8:45 am]

[4310-84-M]

Bureau of Land Management

[Group 599]

CALIFORNIA

Notice of Filing of Plat of Survey

OCTOBER 6, 1978.

1. A plat of survey of the following described land, accepted August 7, 1978, will be officially filed in the California State Office, Sacramento, Calif., effective at 10 a.m. on November 21, 1978:

MOUNT DIABLO MERIDIAN, CALIFORNIA

T. 22 N., R. 4 E.,
Sec. 2, lots 13, 14, 15, and 16;
Sec. 38, lots 1 and 2;
Sec. 39, lots 1 and 2.
The area described totals 266.76 acres.

The plat represents a dependent resurvey of a portion of the north and east boundaries, a portion of the subdivisional lines and a survey of a portion of the subdivision of section 2 and of the hiatus sections 38 and 39.

2. This survey was executed at the request of the U.S. Forest Service.

3. The above-described lands are within the Lassen National Forest, and are therefore not subject to disposition under the public land laws generally by reason of the official filing of the plat of survey.

HERMAN J. LYTTGE,
Chief, Branch of Records and Data Management.

[FR Doc. 78-28863 Filed 10-12-78; 8:45 am]

[4310-84-M]

[Group 682]

CALIFORNIA

Notice of Filing of Plats of Survey

OCTOBER 6, 1978.

1. Plats of survey of the following described lands, accepted July 28, 1978, will be officially filed in the California State Office, Sacramento, Calif., effective at 10 a.m. on November 21, 1978:

HUMBOLDT MERIDIAN, CALIFORNIA

T. 11 N., R. 1 E.,

A dependent resurvey of portions of the township subdivisional lines, subdivisional lines of section 20, boundaries of the Redwood National Park and lot No. 43 of the Chester Consolidated Placer Claim and a subdivision of section 20.

T. 16 N., R. 1 W.,

A dependent resurvey of a portion of the third standard parallel north along the south boundary, a portion of the subdivisional lines, and the metes and bounds survey of parcel A, within the Redwood National Park, of section 35.

2. These surveys were executed at the request of the National Park Service.

3. The above-described lands are within the Redwood National Park, and are therefore not subject to disposition under the public land laws generally by reason of the official filing of the plat of survey.

HERMAN J. LYTTGE,
Chief, Branch of Records and Data Management.

[FR Doc. 78-28864 Filed 10-12-78; 8:45 am]

[4310-84-M]

CALIFORNIA DESERT WILDERNESS INVENTORY

Meetings

Notice is hereby given of a series of public meetings at various locations in California December 4-15, 1978, to obtain public comment on the draft wilderness inventory for the California Desert Conservation Area.

A draft wilderness inventory map and narrative descriptions of study areas will be available approximately November 1, 1978. A 90-day period for review and comment by the public will follow issuance of the map and descriptions.

The public meetings will be held between 9 a.m. and noon and again between 7 and 10 p.m. in the following locations:

December 4, Sacramento, Resources Auditorium, 1416 Ninth Street.
December 5, Needles, City Council Chamber, 1111 Bailey Street.
December 6, Los Angeles, Supervisors Hearing Room, 500 West Temple Street.
December 7, Barstow, City Council Chambers, 220 East Mountain View.
December 8, Riverside, City Council Chambers, 10th and Main.
December 11, Santa Ana, Ramada Inn, 1600 East First Street.
December 12, Trona, Kerr-McGee Recreation Hall.
December 13, San Diego, San Diego Gas & Electric Auditorium, 101 Ash Street.
December 14, Lone Pine, Town Hall, Bush and Jackson.
December 15, El Centro, Imperial Irrigation District Auditorium, 285 Broadway.

Public comment is being sought on the existence or nonexistence of roads and wilderness characteristics in the California Desert Conservation Area. "Wilderness characteristics" include size, naturalness, outstanding opportunities for solitude or a primitive unconfined type of recreation, and ecological, geological, or other features of scientific, educational, scenic, or historical value as defined in section 2(C) of the Wilderness Act of 1964.

The wilderness inventory map and narrative descriptions of the meetings will be available from the Wilderness Inventory Team, Bureau of Land Management, 1695 Spruce Street, Riverside, Calif. 92507, on or shortly after November 1, 1978.

Dated: October 4, 1978.

ROBERT E. METZGER
Acting State Director.

[FR Doc. 78-28865 Filed 10-12-78; 8:45 am]

[4310-84-M]

[Wyoming 65077]

WYOMING

Notice of Application

OCTOBER 2, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corp. of Salt Lake City, Utah, filed an application for a right-of-way to construct a 4½-inch O.D. pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 20 N., R. 112 W.,
Sec. 26, NW¼SW¼.

The proposed pipeline will transport natural gas produced from the Champlin 285A No. 1 well located in the E½SW¼ of sec. 27, to a point of connection with Northwest Pipeline Corp.'s existing pipeline designated as trunk A in the NW¼SW¼ of sec. 26, T. 20 N., R. 112 W., in Sweetwater County.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 North, P.O. Box 1869, Rock Springs, Wyo. 82901.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Mineral Operations.

[FR Doc. 78-28866 Filed 10-12-78; 8:45 am]

[4310-84-M]

[Wyoming 65317]

WYOMING

Notice of Application

OCTOBER 2, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corp. of Salt Lake City, Utah filed an application for a right-of-way to construct a 4½ inch pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 28 N., R. 114 W.,
sec 9, SW¼SE¼

The proposed pipeline will transport natural gas from their well Fogarty Creek No. 7-9 northerly to a point of connecting with their gathering system located within the SW¼SE¼ section 9, T. 28 N., R. 114 W., Sweetwater County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 North, P.O. Box 1869, Rock Springs, Wyo. 82901.

HAROLD G. STINCHCOMB
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-28867 Filed 10-12-78; 8:45 am]

[4310-84-M]

[Wyoming 65315]

WYOMING

Notice of Application

OCTOBER 3, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Co. of Colorado Springs, Colo. filed an application for a right-of-way to construct a 4½-inch O.D. pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 20 N., R. 92 W.,
sec. 18, lot 2 and SW¼NE¼, N½NE¼, and SE¼NW¼.
T. 20 N., R. 93 W.,
sec. 14, S½NE¼.

The proposed pipeline will transport natural gas from the Latham No. 1-14 well located in section 14, T. 20 N., R. 93 W., in a generally southerly and northeasterly direction to a point of connection with an existing line in section 17, T. 20 N., R. 92 W., Sweetwater County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyo. 82301.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-28868 Filed 10-12-78; 8:45 am]

[4310-84-M]

(Wyoming 65332)

WYOMING

Notice of Application

OCTOBER 3, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Co. of Colorado Springs, Colo., filed an application for a right-of-way to construct a 4½ inch o.d. pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 23 N., R. 94 W.,
sec. 4, S½SE¼;
sec. 9, W½E½;
sec. 20, E½SE¼;
sec. 32, E½W½.

The proposed pipeline will transport natural gas from the No. 1-4 Lost Creek natural gas well, located in section 4, T. 23 N., R. 94 W., in a generally southerly direction to a point of connecting with an existing line in section 32, T. 23 N., R. 94 W., Sweetwater County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Avenue, P.O. Box 670, Rawlins, Wyo. 82301.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-28869 Filed 10-12-78; 8:45 am]

[4310-84-M]

PLAN FOR PREPARATION OF ENVIRONMENTAL IMPACT STATEMENTS—1980-1982

Pursuant to documents filed with the U.S. District Court for the District of Columbia on September 11, 1978, regarding civil action No. 1983-73, the plan for preparation of grazing environmental statements for livestock grazing on public lands for fiscal years 1980-82 is as shown on attached exhibit "A."

The schedule for completion of environmental statements in 1978 and 1979 is as proposed in the FEDERAL REGISTER of September 1, 1977, page 44020.

ARNOLD E. PETTY,
Acting Associate Director.

August 3, 1978

EXHIBIT A

Bureau of Land Management
Grazing Environmental Statement Schedule 1980-82

	Fiscal Year 1980		Fiscal Year 1981		Fiscal Year 1982	
State	Name	Acres (000's)	Name	Acres (000's)	Name	Acres (000's)
Arizona	Shivwits	1,397	Haulapai-Aquarius	943	Harcuvar-Vulture	1,461
California	Cow Head-Massacre	769	Mountain Dome	42	Willow Creek	299
	California Desert	11,000	Benton-Owens Valley	530	Bodie-Colville	250
			Cal-Neva	639	Sierra	240
			McCain Valley	94		
Colorado	Gunnison	636			Glenwood Springs	528
	White River	1,506				
	Royal Gorge	498				
Idaho	Owyhee	1,183	North Idaho	160	Ellis	374
	Bannock-Oneida	450	Sun Valley	243	Twin Falls	242
			Big Desert	800	Bruneau-Saylor Creek	2,247
Montana	Mountain Foothills	1,054	Prairie Potholes	1,735	Big Dry	1,322
Nevada	Tonopah	3,750	Paradise-Denio	3,642	Las Vegas	3,314
			Sonoma-Gerlach	4,563	Schell	4,182
					Reno	681
New Mexico	San Juan	973	Southern Rio Grande	2,156	Westside Socorro	929
	McGregor Range	515				
Oregon	Ironside	1,002	Lakeview	3,366	Harney	2,668
					Brothers	1,014
Utah	Kanab-Escalante	2,498	Ashley Creek	542	Pinyon	1,222
	Mountain Valley	480	Price River	1,591	Henry Mountain	1,397
Wyoming	Green Mountain	1,338	Salt Wells - Pilot Butte	1,645		
			Crane Creek	1,004		
Total	16 Statements	29,049	17 Statements	23,695	17 Statements	22,370

[FR Doc. 78-28870 Filed 10-12-78; 8:45 am]

[4310-84-M]

[NM 34738, 34782]

NEW MEXICO

Notice of Application

OCTOBER 5, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co. has applied for two 4½-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 29 N., R. 8 W.,
Sec. 24, NE¼SE¼.
T. 32 N., R. 11 W.,
Sec. 12, SW¼SE¼;
Sec. 13, NW¼NE¼ AND NE¼NW¼.

These pipelines will convey natural gas across 0.466 of a mile of public lands in San Juan County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-29038 Filed 10-12-78; 8:45 am]

[4310-84-M]

[NM 34728]

NEW MEXICO

Application

OCTOBER 3, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co. has applied for two 4½-inch natural gas pipelines right-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 18 S., R. 28 E.,
Sec. 12, SW¼NE¼ AND N½SE¼.
T. 18 S., R. 29 E.,
Sec. 7, lots 3, 4, SE¼SW¼ AND SW¼SE¼.

These pipelines will convey natural gas across 1.294 miles of public lands in Eddy County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-29039 Filed 10-12-78; 8:45 am]

[4310-84-M]

[NM 34528]

NEW MEXICO

Application

OCTOBER 6, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Transwestern Pipeline Co. has applied for one 6-inch natural gas pipeline and related facilities right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 19 S., R. 31 E.,
Sec. 28, NE¼SW¼;
Sec. 29, SE¼SE¼;
Sec. 31, SE¼SW¼, N½SE¼ and SW¼SE¼;
Sec. 32, N½NE¼, NE¼NW¼, S½NW¼ and

This pipeline will convey natural gas across 2.00 miles of public land in Eddy County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-29002 Filed 10-12-78; 8:45 am]

[4310-70-M]

DEPARTMENT OF THE INTERIOR

National Park Service

CAPE COD NATIONAL SEASHORE ADVISORY COMMISSION

Meeting

Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Cape Cod National Seashore Advisory Commission will be held on Friday, November 3, 1978, at 1 p.m., at the Headquarters Building, Cape Cod National Seashore, Marconi Station Area, South Wellfleet, Mass.

The Commission was established pursuant to Pub. L. 91-383 to meet and consult with the Secretary of the Interior on general policies and specific matters relating to the development of Cape Cod National Seashore.

The Commission will consider the following matters: (1) Request for approval of proposed extension of seasonal liquor license to year-round license; (2) proposal to locate fish processing plant on State-owned land adjacent to seashore property in Provincetown; (3) proposed new facilities at Coast Guard and Nauset Light Beaches, Eastham; (4) status report on proposed new zoning standards; (5) report of Concession Management Subcommittee; and (6) dunes migration studies, province lands.

The meeting is open to the public. It is expected that 15 persons will be able to attend the session in addition to Commission members.

Interested persons may make oral/written presentations to the Commission or file written statements. Such requests should be made to the official listed below at least 7 days prior to the meeting.

Further information concerning this meeting may be obtained from Lawrence C. Hadley, Superintendent, Cape Cod National Seashore, South Wellfleet, Mass. 02663, telephone 617-349-3785. Minutes of the meeting will be available for public information and copying 4 weeks after the meeting at the Office of the Superintendent, Cape Cod National Seashore, South Wellfleet, Mass.

LAWRENCE C. HADLEY,
Superintendent, Cape Cod National Seashore.

OCTOBER 13, 1978.

[FR Doc. 78-28913 Filed 10-12-78; 8:45 am]

[4310-70-M]

National Park Service

VOYAGEURS NATIONAL PARK

Notice of Public Meetings on Draft Master Plan and of Availability of Draft Master Plan and Draft Environmental Statement

Notice is hereby given of the availability of a draft master plan for Voyageurs National Park. The plan will be the subject of a series of public meetings as noted below. Notice is further given of the availability of draft environmental statement which has been prepared for this plan. Public comment on both documents is invited.

The master plan will be the basic document in guiding development and management of the park. The draft master plan will be reviewed and explained at each of the public meetings listed below and persons who wish to do so may comment verbally. The meeting schedule:

November 13, 7:30 p.m. (CST)—Rainy River Community College, International Falls, Minn.
November 14, 7:30 p.m. (CST)—Orr High School, Orr, Minn.
November 15, 7:30 p.m. (CST)—Mesabi Community College, 905 West Chestnut Street, Virginia, Minn.
November 16, 7:30 p.m. (CST)—Rochester Community College, Rochester, Minn.
November 17, 7 p.m. (CST)—St. Paul Civic Center, Concourse Meeting Rooms 1 and 2, I. A. O'Shaughnessy Plaza (143 West Fourth Street), St. Paul, Minn.
November 18, 2 p.m. (CST)—Arena Auditorium, 350 South Fifth Avenue West, Duluth, Minn.

Written comments on the draft master plan also may be submitted. They should be sent to Franklin G. Ackerman, Acting Superintendent, Voyageurs National Park, P.O. Drawer 50, International Falls, Minn. 56649, and will be received until December 18, 1978.

Copies of the draft master plan may be obtained from the Acting Superintendent at the same address. The draft is available for inspection, during normal business hours, at the office of the Acting Superintendent, Voyageurs National Park, Highway 53 South, International Falls, Minn., or at either the following offices:

Regional Director, Midwest Region, National Park Service, 1709 Jackson Street, Omaha, Nebr. 68102.
Superintendent, Grand Portage National Monument, P.O. Box 666, U.S. Highway 61 South, Grand Marais, Minn. 55604.

The Department of the Interior has prepared the draft environmental statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969. The environmental statement considers the ecological, cultural, and socioeconomic effects of preservation, development, and management of the park upon implementation of the plan or the alternatives.

Written comments on the draft environmental statement are invited and will be accepted for a period of forty-five (45) days from the date of this notice. Copies of the statement will be available from, or for inspection, during normal business hours, at the offices of the Acting Superintendent of Voyageurs National Park, the Superintendent of Grand Portage National Monument, and the Regional Director, Midwest Region, National Park Service, at the addresses listed above. Written comments should be directed to these same offices.

Dated: October 11, 1978.

ROBERT STANTON,
Acting Deputy Director,
National Park Service.

[FR Doc. 78-29142 Filed 10-12-78; 8:45 am]

[4310-70-M]

Office of the Secretary

COUNCIL OF THE NATIONAL PARK SYSTEM ADVISORY BOARD

Establishment

This notice is issued in accordance with the provisions of section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463). The Secretary of the Interior is establishing the Council of the National Park System Advisory Board to participate in activities of, and to further the purposes of, the National Park System Advisory Board in advising the Secretary of the Interior in regard to matters relating to the National Park System, and to matters related to the administration of the Historic Sites Act of August 21, 1935. Further information regarding the Council of the National Park System Advisory Board may be obtained from Shirley M. Luikens, Advisory Boards and Commissions, National Park Service, Department of the Interior, Washington, D.C. 202-343-2012.

CERTIFICATION

I hereby certify that establishment of the Council of the National Park System Advisory Board is in the public interest in connection with the performance of duties imposed on this agency by law.

Dated: October 4, 1978.

CECIL D. ANDRUS,
Secretary of the Interior.

[FR Doc. 78-28914 Filed 10-12-78; 8:45 am]

[4510-24—M]

DEPARTMENT OF LABOR

Bureau of Labor Statistics

LABOR RESEARCH ADVISORY COUNCIL COMMITTEES

Meetings and Agenda

The regular fall meetings of committees of the Labor Research Advisory Council will be held on October 31, November 1 and 2 in room 4454, General Accounting Office Building, 441 G Street NW., Washington, D.C.

The Labor Research Advisory Council and its committees advise the Bureau of Labor Statistics with respect to technical matters associated with the Bureau's programs. Membership consists of union research directors and staff members.

The schedule and agenda of the meetings are as follows:

TUESDAY, OCTOBER 31

9:30 a.m.—Committee on Foreign Labor and Trade.

1. International comparisons of labor statistics—the recommendations of the Panel to Review Productivity Statistics.
2. Review of the Bureau of Labor Statistics program on Import and Export Price Statistics.

TUESDAY, OCTOBER 31

1:30 p.m.—Committee on Productivity, Technology and Growth.

1. Implications for productivity programs of (a) the termination of the National Center for Productivity and (b) the recommendations of the Panel to Review Productivity Statistics.
2. Capital stock, employment and output data by industry.
3. Labor force projections to 1990.
4. Economic growth model—economic and employment projections to 1990.

WEDNESDAY, NOVEMBER 1

9:30 a.m.—Committee on Wages and Industrial Relations.

1. Work in progress—progress of BLS Wages and Industrial Relations programs.
2. Program planning and budget cycles and proposed subcommittee on long-range planning.
3. Changing structure of employee compensation—past structure changes and discussion of future outlook.

THURSDAY, NOVEMBER 2

9:30 a.m.—Committee on Employment Structure and Analysis.

1. Issues relating to Current Population Survey definitions and methodology before the National Commission on Employment and Unemployment Statistics.
2. Additional Current Population Survey redesign issues.
3. Job vacancies.
4. The application of the Standard Industrial Classification revision to the Employment and Earnings (790 establishment) series.
5. Report on the status of the Current Population Survey program of weekly and hourly earnings.

6. Budget and program for fiscal 1980.

THURSDAY, NOVEMBER 2

1:30 p.m.—Committee on Prices and Living Conditions.

1. Consumer Price Index—problems, if any, encountered in current CPI calculations.
2. Consumer Price Index—comparison of revised and unrevised Consumer Price Indexes.
3. Family Budgets—status report.
4. Producer Price Index—current developments in Producer Price Index revision.
5. International Price Program—impact of revisions on price indexes.

The meetings are open. It is suggested that persons planning to attend as observers contact Joseph P. Goldberg, Executive Secretary, Labor Research Advisory Council on (Area Code 202) 523-1247.

Signed at Washington, D.C., this 4th day of October 1978.

JANET L. NORWOOD,
Acting Commissioner of Labor Statistics.

[FR Doc. 78-28622 Filed 10-12-78; 8:45 am]

[4510-30-M]

Employment and Training Administration

EMPLOYMENT TRANSFER AND BUSINESS COMPETITION DETERMINATIONS UNDER THE RURAL DEVELOPMENT ACT

Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.
2. Employment trends in the same industry in the local area.
3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.
4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).
5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice to: Deputy Assistant Secretary for Employment and Training, 601 D Street NW., Washington, D.C. 20213.

Signed at Washington, D.C. this 10th day of October 1978.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training.

APPLICATIONS RECEIVED DURING THE WEEK ENDING OCTOBER 7, 1978

NAME OF APPLICANT, LOCATION OF ENTERPRISE, AND PRINCIPAL PRODUCT OR ACTIVITY

Fiber Glass Industries, Inc., Amsterdam, N.Y., manufacture of fiber glass roving.

American Wood Products, Inc., Perry, Lake City, Polk City, and Longwood, Fla., manufacture of cypress lumber and horticulture products.

Texfi Industries, Inc., Asheboro Goldsboro Kinston, Liberty New Bern Rocky Mount, Swepsonville, Fayetteville and Greensboro, N.C. and New York City, N.Y., manufacture of doubleknit fabrics.

Florida Crushed Stone Co., Lake Hernando, and Sumter Counties, Fla., mining of crushed and broken limestone.

Chrysler Corp., Kokomo, Ind., manufacture of aluminum die castings. J Land Co/C Jack Kennedy, President Clear Lake, Iowa, motel and restaurant.

Jeff-Co., Glenwood Springs, Colo., motel and restaurant.

Knecht Industries, Inc., Rapid City, S. Dak., manufacture of residential building and building products.

Black Hills Milk Producers, Rapid City, S. Dak.; Billings, and Bozeman, Mont.; Ogden, Utah, manufacture of dairy products.

Southwest Chemicals Corp., Navajo County, Ariz., manufacture and sales of rosin and related products.

[FR Doc. 78-29007 Filed 10-12-78; 8:45 am]

[4510-26-M]

Occupational Safety and Health Administration

FEDERAL ADVISORY COUNCIL ON OCCUPATIONAL SAFETY AND HEALTH

Meeting

Notice is hereby given that the Federal Advisory Council on Occupational Safety and Health, established under Section 4(a) of Executive Order 11807 of September 28, 1974 (39 FR 35559), Occupational Safety and Health Programs for Federal Employees, will meet on October 31 starting at 9:30 a.m. in Room N5437 A, B, and C New Department of Labor Building, 200 Constitution Avenue NW., Washington, D.C. The meeting will be open to the public.

The agenda provides for:

I. Announcements
II. Appointments and reappointments of FACOSH members
III. Election of the Vice Chairperson for Calendar Year 1979
IV. Committee Reports:
A. Ad Hoc Committee on Part 1960—Discussion and presentation on revised procedure for handling of employee reports of unsafe or unhealth working conditions
B. Standing Committee on FARS—Standardized Reporting System contract award.
C. Ad Hoc Subcommittee on Federal Safety and Health Staffing Guide—Report on Committee activities
D. Standing Committee on Occupational Noise—Report on Committee activities
E. Standing Committee on Field Federal Safety and Health Councils—Report on Committee activities
F. Standing Committee on Federal Safety and Health Conferences—Report on Committee activities
V Government—Industry Data Exchange Program (GIDEP)—Status of SAF—ALERT System.

The Council welcomes written data, views or comments concerning safety and health programs for Federal employees, including comments on the agenda items. All such submissions received by close of business October 27, 1978, will be provide to the members of the Council and included in the record of the meeting.

The Council will consider oral presentations relating to agenda items. Persons wishing to orally address the Council at the meeting should submit a written request to be heard by close

of business October 27, 1978. The request must included the name and address of the person wishing to appear, the capacity in which appearance will be made, a short summary of the intended presentation and an estimate of the amount of time needed.

All communications regarding this Advisory Council should be addressed to Ms. Annie Asensio, Executive Director, FACOSH, Department of Labor, OSHA, First Floor South, 2100 M Street, NW., Washington, D.C. 20210, telephone 202-653-5500.

Signed at Washington, D.C., this 6th day of October 1978.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc. 78-29004 Filed 10-12-78; 8:45 am]

[4510-28-M]

Office of the Secretary

[TA-W-3775]

KENNECOTT COPPER CORP., UTAH MINES DIVISION, CONCENTRATION PLANT, MAGNA, UTAH

Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on May 25, 1978, in response to a worker petition received on May 22, 1978, which was filed by the United Steelworkers of America on behalf of workers and former workers producing concentrate raw copper ore at the Magna, Utah Concentrator plant of the Utah Mines Division of Kennecott Copper Corp.

Notice of investigation was published in the FEDERAL REGISTER on June 9, 1978 (43 FR 25197-98). No public hearing was requested and none was held.

The petitioner, the United Steelworkers of America, requested withdrawal of the petition. On the basis of the withdrawl, continuing the investigation would serve no purpose. Consequently, the investigation has been terminated. Signed at Washington, D.C., this 2d of October 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-28429 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3776]

KENNECOTT COPPER CORP., UTAH MINES DIVISION, UTAH COPPER DIVISION REFINERY, GARFIELD, UTAH

Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on May 25, 1978, in response to a worker petition received on May 22, 1978, which was filed by the United Steelworkers of America on behalf of workers and former workers engaged in refining blister copper into cathodes at the Utah Copper Division Refinery, Garfield, Utah, of the Utah Mines Division of the Kennecott Copper Corp.

Notice of investigation was published in the FEDERAL REGISTER on June 9, 1978 (43 FR 25197-98). No public hearing was requested and none was held.

The petitioner, the United Steelworkers of America, requested withdrawal of the petition. On the basis of the withdrawal, continuing the investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 2d day of October 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-28430 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3777]

KENNECOTT COPPER CORP., UTAH MINES DIVISION, UTAH COPPER DIVISION SMELTER, GARFIELD, UTAH

Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on May 25, 1978 in response to a worker petition received on May 22, 1978 in response filed by the United Steelworkers of America on behalf of workers and former workers producing blister copper at the Utah Copper Division Smelter, Garfield, Utah of the Utah Mines Division of the Kennecott Copper Corp.

Notice of investigation was published in the FEDERAL REGISTER on June 9, 1978 (43 FR 25197-98). No public hearing was requested and none was held.

The petitioner, the United Steelworkers of America, requested withdrawal of the petition. On the basis of the withdrawal, continuing the investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 2d day of October 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-28431 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3765]

KENNECOTT COPPER CORP., RAY MINES DIVISION, HAYDEN, ARIZ.

Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on May 24, 1978, in response to a worker petition received on May 19, 1978, which was filed by the United Steelworkers of America on behalf of workers and former workers mining copper bearing ores, copper anodes, and cathdoes at the Hayden, Arizona plant of the Ray Mines Division of Kennecott Copper Company, Corporation. During the course of the investigation it was determined that the name of the company is Kennecott Copper Corporation.

Notice of investigation was published in the FEDERAL REGISTER on June 6, 1978 (43 FR 24634-35). No public hearing was requested and none was held.

The petitioner, the United Steelworkers of America, requested withdrawal of the petition. On the basis of the withdrawal, continuing the investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 3d of October 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-28432 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3710]

KIRSON HANDBAGS, INC., NEWBURGH, N.Y.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3710: 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 April 18, 1978 which was filed on behalf of workers and former workers producing ladies' vinyl handbags at Kirson Handbags, Inc., Newburgh, N.Y.

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 Kirson Handbags, its customers, the U.S. International Trade Commission, 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 Trade Act of 1974 must be met. The investigation revealed that all of the criteria have been met.

Imports of handbags increased from 90.2 million units in 1976 to 92.8 million units in 1977. Imports continued to increase from 22.1 million units during the first quarter of 1977 to 34.0 million units during the first quarter of 1978.

Customers of Kirson Handbags who were surveyed reduced purchases from Kirson during 1977 and the first quarter of 1978 while increasing purchases of imported handbags during that period.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' vinyl handbags produced by Kirson Handbags, Inc., Newburgh, N.Y., contributed importantly to the total or partial separations of the workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of Kirson Handbags, Inc., Newburgh, N.Y., who became totally or partially separated from employment on or after April 7, 1977 and before November 15, 1977 are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 25th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-28433 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3652]

LAMAY COAT CO. JERSEY CITY, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3652: 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 Roma Fashions, Inc., Jersey City, N.J. During the course of the investigation, it was determined that the petitioning group of workers were employed by the Lamay Coat Co. until it closed in November 1977. Roma Fashions, Inc., a new firm, began operations in these facilities in April 1978.

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 Roma Fashions, Inc., its manufacturers, the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses', and children's coats and jackets increased from 2252 thousand dozen in 1976 to 2723 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.

U.S. imports of women's, misses', and children's raincoats decreased from 261 thousand dozen in 1976 to 242 thousand dozen in 1977. Imports increased from 84 thousand dozen in the first quarter of 1977 to 129 thousand dozen in the first quarter of 1978.

A survey of manufacturers who purchased ladies' coats and raincoats produced at Lamay Coat Co. indicated that one manufacturer accounting for a majority of sales in fiscal year ending May 31, 1977 ceased purchases from the subject firm and increased purchases of imported ladies' coats in fiscal year ending May 31, 1978 compared to the same period in 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 and raincoats produced at Lamay Coat Co., Jersey City, 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 Lamay Coat Co., Jersey City, N.J., who became totally or partially separated from employment on or after May 1, 1977 and before December 15, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974. All workers separated on or after December 15, 1977 are not eligible for program benefits.

Signed at Washington, D.C., this 29th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-28434 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-4010]

MANHATTAN SHIRT CO., INC., AMERICUS, GA.

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-4010: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on July 31, 1978 in response to a worker petition received on July 24, 1978 which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers producing men's dress and sport shirts and ladies' blouses at the Americus, Ga. plant of the Manhattan Shirt Co., Inc. During the course of the investigation, it was established that Americus, Ga. plant did not produce men's sport shirts nor ladies' blouses, but produced only men's dress shirts.

The Notice of Investigation was published in the FEDERAL REGISTER on August 8, 1978 (43 FR 35130-31). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Manhattan Shirt Co., Inc., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

On June 9, 1976, workers at the Americus, Ga. plant of the Manhattan Shirt Co., Inc. were certified as eligible to apply for trade adjustment assistance (TA-W-697). This certification expired on June 9, 1978.

The Department's investigation revealed that the average number of production workers at the Americus, Ga. plant of the Manhattan Shirt Co., Inc. increased 1.1 percent in fiscal year 1977 [1] compared to fiscal year 1976 and increased 5.3 percent in the period February through July 1978 compared to the same period in 1977. The average number of hours worked per week increased 2.8 percent in fiscal year 1977 compared to fiscal year 1976 and remained unchanged in the period February through July 1978 compared to the same period in 1977.

No layoffs have occurred at the Americus, Ga. facility during fiscal year 1977 and the first half of fiscal year 1978. Company officials indicate that there is no threat of total or partial separations in the foreseeable future.

CONCLUSION

After careful review, I determine that all workers of the Americus, Ga. plant of the Manhattan Shirt Co., Inc. are denied eligibility to apply for trade adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 25th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28435 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3691]

MICHELLE RENA FASHIONS, INC., RED BANK, N.J.

Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an 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 Michelle Rena Fashions, Inc., Red Bank, 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.

Due to the short term of operation of Michelle Rena Fashions and to the seasonality of the ladies' coat industry, there is not sufficient information in this case upon which to base a determination. In addition, worker qualifying requirements in section 231 of the act may not be met at this time. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 3rd day of October 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-28436 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3559]

MILT POSNER FUR CORP., NEW YORK, N.Y.

Determinations 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-3559: 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 17, 1978 which was filed by the Furriers Joint Council of New York on behalf of workers and former workers producing ladies' split cowhide jackets and coats at Milt Posner Fur Corp., New York, N.Y. During the course of the investigation, it was established that ladies' fake fur coats were also produced.

The notice of investigation was published in the FEDERAL REGISTER on May 16, 1978 (43 FR 21069). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Milt Posner Fur Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met.

Without regard to whether any of the other criteria have been met, the following criterion has not been met with respect to workers producing fake fur coats at Milt Posner Fur Corp.:

That sales or production, or both, of the firm or subdivision have decreased absolutely.

The Department's investigation revealed that production of fake fur coats at Milt Posner Fur Corp. increased, in quantity, in 1977 as compared to 1976 and then increased, in quantity, during the first quarter of 1978 as compared to the first quarter of 1977. Production and sales are equivalent at Milt Posner Fur Corp.

With respect to workers producing split cowhide (leather) jackets and coats, all of the group eligibility requirements of section 222 of the act have been met.

United States imports of women's, misses' and children's coats and jackets increased from 1,517 thousand dozen in 1975 to 2,252 thousand dozen in 1976 and to 2,723 thousand dozen in 1977. Imports decreased slightly in the first quarter of 1978 to 572 thousand dozen, as compared to 590 thousand dozen in the first quarter of 1977. The ratio of imports to domestic production increased from 38.9 percent in 1975 to 48.3 percent in 1976 and to 54.9 percent in 1977.

United States imports of leather coats and jackets (men's, boy's, women's, misses', juniors', and children's) increased from 115.5 million dollars in 1975 to 177.8 million dollars in 1976 and to 186.4 million dollars in 1977. The ratio of imports of leather coats to domestic production increased substantially from 59.5 percent in 1975 to 96.3 percent in 1976, and then declined in 1977 to 85.3 percent, a level which still far surpasses the import/production ratios of 1973 though 1975.

A survey was conducted by the U.S. Department of Commerce among retail customers of Milt Posner Fur Corp. Results indicated that major customers decreased their purchases of split cowhide (leather) jackets and coats from Milt Posner in 1977 compared to 1976 and increased split cowhide leather coat and jacket purchases from foreign sources during this time period.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with split cowhide jackets and coats produced by Milt Posner Fur Corp. of New York, N.Y. contributed importantly to the decline in sales and production and to the separation of workers engaged in employment related to the production of such products at the firm. In accordance with the provisions of the act, I make the following certification:

All workers engaged in employment related to the production of ladies' split cowhide jackets and coats at Milt Posner Fur Corp. of New York, N.Y. who became totally or

[1] Fiscal year represents February 1 through January 31.

partially separated from employment on or after June 3, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

I further determine that all workers engaged in employment related to the production of fake fur coats at Milt Posner Fur Corp. of New York, N.Y. are denied eligibility to apply for trade adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 25th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28437 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-2906]

M. HOFFMAN CO., INC., BOSTON, MASS.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2906: 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 11, 1978, in response to a worker petition received on December 29, 1977, which was filed on behalf of workers and former workers producing sailor pants and jeans at the Boston, Mass. plant of M. Hoffman Co., Inc. The investigation revealed that the workers produced a denim jean used by the U.S. Navy.

The notice of investigation was published in the FEDERAL REGISTER on January 27, 1978 (43 FR 3776). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of M. Hoffman Co., Inc., the U.S. Navy, 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 requirements of section 222 of the act must be met. It is concluded that all of the requirements have been met.

U.S. imports of men's and boys' jeans and dungarees increased from 9 million units in 1975 to 14 million units in 1976 and increased again to 23 million units in 1977. The ratio of imports of jeans to domestic production increased from 3.8 percent in 1975 to 5.4 percent in 1976 and increased again to 8.5 percent in 1977. Imports of jeans in the first quarter of 1978 increased to 7.9 million units compared to 4.5 million units in the first quarter of 1977.

Two thirds of the jeans produced at the Boston plant are sold to the U.S. Navy; the remainder are samples. The decrease in production at the Boston plant in 1977 is attributable to reduced sales to the Navy. The decrease in production in the first quarter of 1978 is due largely to the company's decision to substitute imports for much of its domestic production, thereby reducing the need for samples produced at the Boston plant. Company imports of jeans, similar to those produced at Hoffman's three other domestic plants, began in 1977 and were 2.8 percent greater than the Boston plant's production in 1977. Company imports increased 218.5 percent in the first quarter of 1978 compared to the first quarter of 1977 and were 17 times greater than the Boston plant's production in the first quarter of 1978.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with jeans produced by the Boston, Mass. plant of M. Hoffman Co., Inc., 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 of the Boston, Mass. plant of M. Hoffman Co., Inc. who became totally or partially separated from employment on or after December 2, 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 28th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-28438 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3751]

MIAMI-INSPIRATION HOSPITAL, INC., MIAMI, ARIZ.

Negative Determination Regarding Application for Reconsideration

On September 6, 1978, the petitioner requested administrative reconsideration of the Department of Labor's negative determination regarding eligibility to apply for worker adjustment assistance in the case of workers and former workers of the Miami-Inspiration Hospital, Inc., Miami, Ariz. The determination was published in the FEDERAL REGISTER on August 25, 1978 (43 FR 38131).

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.

The petitioner cites that separations from work at the hospital are affected by layoffs at the Inspiration Consolidated Copper Co. (TA-W-2412) and Cities Services Co. (TA-W-2579) both of which are currently certified. The basis for the Department's denial is that services are not "articles" within the meaning of section 222 of the Trade Act of 1974 and that independent firms for which the hospital provides services cannot be considered the "workers' firm."

The Department has earlier determined that services, such as transportation services, are not "articles" within the meaning of section 222(3) of the Act (see Notice of Negative Determination, Pan American World Airways, Inc., TA-W-153, 40 FR 54639). Further, the Department has determined that a firm for which such services are provided and which is independent of the petitioners' firm cannot be considered to be the "workers' firm" within the meaning of the Act (see Notice of Negative Determination, Nu-Car Driveaway, Inc., TA-W-393, 41 FR 12749).

The Department's investigation has revealed that the hospital is not corporately affiliated with any other company. Further, all workers performing hospital medical and surgical services at the hospital are employed by Miami-Inspiration, Inc., and are not under the supervision by either of the mining companies. Moreover, all personnel actions and payroll transactions are controlled by the hospital. Thus, Miami-Inspiration Hospital, Inc., must be considered the "Workers' firm."

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 29th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28439 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3394]

MIGHT MAC, INC., GLOUCESTER, MASS.

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 cerfification of Eligibility to apply for adjustment assistance on August 31, 1978, applicable to all workers of the Gloucester, Mass. plant of Mighty Mac, Inc., who became totally or partially separated from employment on or after October 22, 1977. The Notice of Certification was published in the FEDERAL REGISTER on September 12, 1978 (43 FR 40567).

The Massachusetts division of Employment Security has informed the Labor Department that the effective separation date of a substantial number of workers intended to be covered by the certification issued is October 21, 1977, and consequently the October 22, 1977 date would not provide the intended coverage.

The intent of the certification is to cover all workers at the Gloucester, Mass. plant of Mighty Mac, Inc. who were adversely affected by the decline in production of men's and boys' outer coats and jackets importantly because of increased imports. The certification therefore, is revised providing a new impact date of October 21, 1977.

The revised certification applicable to TA-W-3394 is hereby issued as follows:

All workers of the Gloucester, Mass. plant of Mighty Mac, Inc., who became totally or partially separated from employment on or after October 21, 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 29th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-28440 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3779]

NEEDLECRAFT DRESS MANUFACTURING CO., CORP. AND CHESTERFIELD DRESS CO., FALL RIVER, MASS.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3779: 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 25, 1978 in response to a worker petition received on May 17, 1978 which was filed on behalf of workers and former workers producing ladies' dresses and suits at the Fall River, Mass. plant of Needlecraft Dress Mfg. Co., Corp. The investigation was expanded to include the Chesterfield Dress Co., Fall River, Mass. The investigation revealed that ladies' dresses were the sole product in 1977 and in 1978. The Nôtice of Investigation incorrectly stated that ladies' gowns were produced.

The Notice of Investigation was published in the FEDERAL REGISTER on June 9, 1978 (43 FR 25197-8). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Needlecraft, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. 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 separations or threat thereof, and to the absolute decline in sales or production.

Imports of women's and misses' dresses increased 2 percent from 1975 to 1976, and declined 11 percent from 1976 to 1977. The ratios of imports to domestic production and consumption declined from 4.6 percent and 4.4 percent, respectively, in 1976 to 4.0 percent and 3.8 percent, respectively, in 1977.

Imports of women's, misses', and children's suits declined 1 percent from 1975 to 1976, and declined 6 percent from 1976 to 1977. The ratios of imports to domestic production and consumption declined from 11.4 percent and 10.2 percent, respectively, in 1976 to 10.5 percent and 9.5 percent, respectively, in 1977.

Both Needlecraft and Chesterfield were engaged in contract work solely for one manufacturer during the period under investigation. A Department survey revealed that this manufacturer, which accounted for 100 percent of the companies' business, did not employ any foreign contractors, nor did the manufacturer import any dresses or suits during the past 3 years.

CONCLUSION

After careful review, I determine that all workers of the Fall River, Mass. plant of the Needlecraft Dress Mfg. Co., Corp. and of the Chesterfield Dress Co. 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 29th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-28441 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3541]

NORRWOCK SHOE CO., PLANT NO. 20, CALAIS, MAINE

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-3541: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on April 25, 1978 in response to a worker petition received on April 12, 1978 which was filed on behalf of workers and former workers producing men's, women's, and children's shoe uppers at the Calais, Maine plant (plant No. 20)of Norrwock Shoe Co.

The Notice of Investigation was published in the FEDERAL REGISTER on May 5, 1978 (43 FR 19479). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Norrwock Shoe Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility

requirements of section 222 of the act must be met. The investigation has revealed that all the requirements have been met.

The Department's investigation revealed that the ratio of imports to domestic production of men's, women's and children's shoes increased in 1977 compared to 1976. Imports of men's, and women's shoes increased absolutely during the first quarter of 1978 compared to the same period of 1977.

Prior to August 1977, Plant No. 20 in Calais produced shoe uppers in support of shoe production at five Norrwock Shoe plants. Three of those plants closed in August 1977. Following a Department investigation, workers at those three plants—located in Skowhegan and North Jay, Maine—were certified as eligible to apply for adjustment assistance (TA-W-2339). A survey of customers of Norrwock Shoe revealed that several customers reduced purchases from Norrwock Shoe while increasing purchases of imports. The closure of these three plants reduced the demand for uppers stitched by the Calais plant.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with shoe uppers produced by Plant No. 20, Norrwock Shoe Co., Calais, Maine contributed importantly to the decline in production and separation of workers from that plant.

In accordance with the provisions of the act, I make the following certification:

All workers of Norrwock Shoe Co., Plant No. 20, Calais, Maine 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 25th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28442 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3599]

NU LOOK MANUFACTURING CO., PATERSON, N.J.

Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on May 8, 1978, in response to a worker petition received on May 28, 1978, which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing ladies' coats at Nu Look Fashions, Inc., Paterson, N.J. During the course of the investigation, it was determined that the name of the company was Nu Look Manufacturing Co.

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.

Due to the short terms of operation of Nu Look Maufacturing Co. and to the seasonality of the ladies' coat industry, there is not sufficient information in this case upon which to base a determination. In addition, worker qualifying requirements in section 231 of the act may not be met at this time. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 3d of October 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-28443 Filed 10-11-78; 8:45 am]

[4510-28-M]

[TA-W-3807]

PALEY ASSOCIATES, INC., MILTON, MASS.

Negative Detemination 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-4010: 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 5, 1978 in response to a worker petition received on April 27, 1978 which was filed on behalf of workers and former workers producing men's outerwear coats at Paley Associates, Inc., Milton, Mass.

The Notice of Investigation was published in the FEDEAL REGISTER on June 20, 1978 (43 FR 26498-26499). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Paley Associates, Inc., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

The Department's investigation revealed that the average number of production and salaried workers engaged in employment related to the production of men's outerwear coats increased from 1976 to 1977 and increased in the first half of 1978 compared to the same period in 1977. Employment has increased in the last six quarters compared to the same quarters of the previous year. Average weekly hours worked by these workers have not changed significantly.

CONCLUSION

After careful review, I determine that all workers of Paley Associates, Inc., Milton, Mass. are denied eligibility to apply for trade adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 25th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28444 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3641]

PAM COAT CO., INC., PASSAIC, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3641: 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 children's coats at Pam Coat Co., Inc., Passaic, N.J. During the course of the investigation it was determined that workers at Pam Coat Co., Inc. produce girls' and misses' coats.

The Notice of Investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Pam Coat Co., Inc., its customers (manufacturers), the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. The Department's investigation revealed that all of the requirements have been met.

U.S. imports of women's, misses', and children's coats and jackets increased from 2,252,000 dozen in 1976 to 2,723,000 dozen in 1977. Imports declined from 590,000 dozen in the first quarter of 1977 to 572,000 dozen in the first quarter of 1978. The ratio of imports of 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 Pam Coat Co., Inc. worked in 1976 and 1977. Manufacturers that accounted for a majority of sales in 1976 reduced purchases from Pam Coat Co., Inc. and increased purchases of imported girls' and misses' coats in 1977 compared to 1976. Manufacturers that accounted for a majority of sales in 1977 reduced purchases from Pam Coat Co., 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 girls' and misses' coats produced at Pam Coat Co., Inc., Passaic, N.J. contributed importantly to the decline in sales and to the separation of workers at the plant. In accordance with the provisions of the act, I make the following certification:

All workers of Pam Coat Co., Inc., Passaic, N.J. who became totally or partially separated from employment on or after November 12, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 25th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-28445 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3660]

PAUL TERRI SPORTSWEAR, INC., LONG BRANCH, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3660: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on May 8, 1978, in response to a worker petition received on April 28, 1978, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats and suits at Paul Terri Sportswear, Inc., Long Branch, N.J. During the course of investigation it was established that Paul Terri Sportswear, Inc. does not produce ladies' suits. Paul Terri produces ladies' coats and a small amount of ladies' blazers.

The Notice of Investigation was published in the FEDEAL 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 Paul Terri Sportswear, Inc., its manufacturers, the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. 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.

A survey of Paul Terri's major manufacturers in 1976 and 1977, indicated that none of the manufacturers decreased purchases from the subject firm while increasing purchases of imports. Those manufacturers who decreased purchases from the subject firm reported that they do not purchase imports. These manufacturers experienced increased sales during the period under investigation. Company sales, adjusted to 1975 dollars, increased in 1977 compared to 1976. Although Paul Terri's sales declined in the first 5 months of 1978 compared to the same period in 1977, none of the manufacturers surveyed have purchased any imports or used foreign contractors in 1978.

CONCLUSION

After careful review, I determine that all workers of Paul Terri Sportswear, Inc., Long Branch, 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 28th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-28446 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3481]

PENNSYLVANIA TIRE & RUBBER CO. OF MISSISSIPPI, INC., TUPELO, MISS.

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-3481: 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 6, 1978 in response to a worker petition received on March 30, 1978 which was filed by the United Rubber, Cork, Linoleum and Plastic Workers of America on behalf of workers and former workers producing passenger car tires and truck tires at the Tupelo, Miss., plant of the Pennsylvania Tire & Rubber Co. of Mississippi, Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on April 25, 1978 (43 FR 17550). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Pennsylvania Tire & Rubber Co. of Mississippi, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. It is concluded that all of the requirements have been met.

The Department's investigation revealed that U.S. imports of passenger car tires increased from 9,940,000 units in 1975 to 12,643,000 units in 1976 and to 13,077,000 units in 1977.

U.S. imports of truck tires (including Mobile Homes) increased from 1,686,000 units in 1975 to 3,562,000 units in 1976 and to 4,093,000 units in 1977.

Company imports of bias passenger car tires decreased 100 percent in 1977 compared to 1976 but increased during the January-April period of 1978 compared to the same period of 1977. Company imports of truck tires increased 57.6 percent in 1977 compared to 1976 and increased 80.7 percent during the January-April period of

1978 compared to the same period of 1977.

A Department survey of customers who purchased passenger car tires and truck tires from the Pennsylvania Tire & Rubber Co. of Mississippi, Inc., indicated that some customers decreased their purchases from Pennsylvania Tire & Rubber Co. and increased their purchases of imported tires in 1977 compared to 1976 and 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 increases of imports of articles like or directly competitive with passenger car tires and truck tires produced at the Tupelo, Miss., plant of the Pennsylvania Tire & Rubber Co. of Mississippi, Inc., contributed importantly to the decline in sales and production and to the total or partial separation of workers of that plant. In accordance with the provisions of the act, I make the following certification:

All workers at the Tupeol, Miss. plant of the Pennsylvania Tire & Rubber Co. of Mississippi, Inc., who became totally or partially separated from employment on or after July 15, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-28447 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3110]

PITTSBURGH & LAKE ERIE RAILROAD, GATEWAY YARD, STRUTHERS, OHIO

Negative Detemination 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-3110: 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 9, 1978 in response to a worker petition received on January 17, 1978 which was filed by the United Transportation Union on behalf of workers and former workers transporting goods at the Gateway Yard, Struthers, Ohio, facility of the Pittsburgh & Lake Erie Railroad.

The notice of investigation was published in the FEDERAL REGISTER on February 24, 1978 (43 FR 7743). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from the Pittsburgh & Lake Erie Railroad 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."

The Department's investigation revealed that the Pittsburgh & Lake Erie Railroad (P. & L.E.) was founded in 1878, and is currently incorporated in Delaware. The railroad is a subsidary of Penn Central Transportation Co.

The Pittsburgh & Lake Erie Railroad is a common carrier licensed by the ICC with rail lines extending from Brownsville and Connellsville, Pa. to Youngstown, Ohio and with trackage rights to Ashtabula, Ohio. Facilities including terminal buildings, warehouses, yards and shops are owned by P. & L.E. Equipment including freight cars, diesel locomotives, motor vehicles and machinery used in maintenance of way operations is under trust and/or lease agreements.

The Pittsburgh & Lake Erie Railroad transports goods according to tariff schedules on file with the Interstate Commerce Commission, and the Pennsylvania & Ohio Public Utilities Commission. The P. & L.E. also provides some passenger transport. The P. & L.E. is not, in any way, engaged in any production operations.

The petitioning workers are employed in the Gateway Yard of the Struthers, Ohio facility of the Pittsburgh & Lake Erie Railroad. Workers in the Struthers, Ohio facility are engaged in transporting goods and passengers and do not produce an article within the meaning of section 222 (3) of the act.

The Pittsburgh & Lake Erie Railroad and its customers have no controlling interest in each other.

All workers engaged in maintaining and providing transportation services for the Pittsburgh & Lake Erie Railroad are employed by that firm. All personnel actions and payroll transactions are controlled by the Pittsburgh & Lake Erie Railroad. All employee benefits are provided and maintained by the P. & L.E. Workers are not at any time under employment or supervision by customers of the P. & L.E. Thus, the Pittsburgh & Lake Erie Railroad must be considered to be "the workers' firm."

CONCLUSION

After careful review, I determine that all workers of the Gateway Yard, Struthers, Ohio, facility of the Pittsburgh & Lake Erie Railroad 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 25th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28448 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3752]

PISCES FASHIONS, INC., DEER PARK, N.Y.

Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation regarding certification of eligibility to apply for worker adjustment assistance was initiated on May 23, 1978, in response to a worker petition received on May 5, 1978, which was filed on behalf of workers and former workers producing ladies' coats at Pisces Fashions, Inc., Deer Park, N.Y.

The notice of investigation was published in the FEDERAL REGISTER on June 6, 1978 (43 FR 24633). No public hearing was requested and none was held.

Information obtained during the course of the investigation revealed that workers employed at Pisces Fashions, Inc., Deer Park, N.Y., are covered under a petition received by the Department on April 17, 1978 (TA-W-3552). Notice of the ongoing investigation was published in the FEDERAL REGISTER on May 16, 1978 (43 FR 21069).

Since an investigation regarding workers at Pisces Fashions, Inc., Deer Park, N.Y., is already in progress, further investigation under TA-W-372 would serve no purpose. The investigation is therefore terminated.

Signed at Washington, D.C., this 27th day of September 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-28449 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3832]

PRECISION GAS PRODUCTS, INC., RAHWAY, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3832: 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 5, 1978, which was filed by the International Chemical Workers Union on behalf of workers producing specialty gases at the Rahway, N.J., plant of Precision Gas Products, Inc.

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 Burdox, Inc., Precision Gas Products, the U.S. International Trade Commission, 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 requirement 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 separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation revealed that Precision Gas Products manufactures specialty gases (gases used for a specific purpose, not mass produced) such as hydrogen and nitrogen and compounds of these gases.

Imports of industrial gases enter the United States under TSUSA 415.5000, "Chemical Elements, Not Elsewhere Specified". Such gases cannot be economically transported for great distances, either as a gas or as a liquid; consequently imports of such gases are negligible. Hydrogen, oxygen, and nitrogen cannot be economically stocked as a gas because of the large, heavy containers needed or as a liquid because of the loss due to heat inflow and the high cost of cryogenic containers.

CONCLUSION

After careful review, I determine that workers of the Rahway, N.J., plant of Precision Gas Products, Inc., 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 22d day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-28450 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3199]

PRIMO COAT CORP., NEW YORK, N.Y.

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-3199: 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 22, 1978, in response to a worker petition received on February 6, 1978, which was filed by the Amalgamated Clothing & Textile Workers' Union on behalf of workers and former workers producing men's suit coats and sportcoats at Primo Coat Corp., New York, N.Y.

The notice of investigation was published in the FEDERAL REGISTER on March 3, 1978 (43 FR 8863). No public hearing was requested and none was held.

On January 29, 1976, the Department issued a certification of eligibility to apply for adjustment assistance for workers at Primo Coat Corp. This certification expired January 29, 1978, 2 years from its date of issuance.

The information upon which the determination was made was obtained principally from officials of Primo Coat Corp., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act must be met.

Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

Average employment of production workers increased in the third and fourth quarters of 1977 compared to the same quarters of 1976. Average employment increased 4 percent and 9 percent respectively for the first time and second quarters of 1978 over the comparable quarters of 1977. There were no significant partial separations during this period.

There is no immediate threat of separations to workers of Primo Coat.

CONCLUSION

After careful review I determine that all workers of Primo Coat Corp., New York, N.Y., 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 22d day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-28451 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-2703]

PUBLICKER INDUSTRIES, INC., PHILADELPHIA, PA.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-2703: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on December 5, 1977, in response to a worker petition received on November 23, 1977, which was filed by the International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America on behalf of workers and former workers producing acetic acid at Publicker Industries, Inc., Philadelphia, Pa. The investigation was expanded to include workers and former workers producing ethyl acetate at the Bigler Chemical Building of Publicker, also located in Philadelphia, Pa.

The Notice of Investigation was published in the FEDERAL REGISTER on December 16, 1977 (42 FR 63487). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Publicker Industries, Inc., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of

eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the act must be met. The investigation revealed that all of the criteria have been met.

U.S. imports of acetic acid increased from 612 thousand pounds in 1975 to 28,441 thousand pounds in 1976 and to 29,729 thousand pounds in 1977. The import to domestic production ratio increased from 0.03 percent in 1975 to 1.15 percent in 1976 and remained stable at 1.15 percent in 1977.

U.S. imports of ethyl acetate increased to 1,463 thousand pounds in 1976 compared to 87 thousand pounds in 1975 and increased to 9,295 thousand pounds in 1977. The import to domestic production ratio increased from 0.05 percent in 1975 to 0.67 percent in 1976 to 5.8 percent in 1977.

Publicker began importing acetic acid in the last quarter of 1977. The company plans to continue importing acetic acid. Ethyl acetate is a byproduct of acetic acid. Since production of acetic acid has been decreased at the Bigler Street Plant, Publicker has begun importing ethyl acetate.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with acetic acid and ethyl acetate produced by Publicker Industries, Inc., Philadelphia, Pa., contributed importantly to declines in sales and production and to the total or partial separation of workers at that firm. In accordance with the provisions of the act, I make the following certification:

All workers of the Acetic Acid Department and Bigler Chemical Building of Publicker Industries, Inc., Philadelphia, Pa., who became totally or partially separated from employment on or after September 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 28th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-28452 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3603]

Q & T COAT CORP. PATERSON, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3603: 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 Q & T Coat Corp., 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 Q & T Coat Co., its customers (manufacturers), the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. The 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 2,225 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 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 Q & T worked in 1976 and 1977.

Manufacturers that accounted for a significant portion of sales in 1977 reported that they reduced purchases from Q & T and increased purchases of imports in the first half of 1978 compared to the first half of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the ladies' coats produced at Q & T Coat Corp., Paterson, N.J. contributed importantly to the decline in sales and to the separation of workers at that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Q & T Coat Corp., 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 29th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-28453 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-2584]

RCA CORP., MEADOW LANDS, PA.

Negative Determination Regarding Application for Reconsideration

On May 18, 1978, the petitioners for workers and former workers of RCA, Meadow Lands, Pa. requested administrative reconsideration of the Department of Labor's negative determination regarding eligibility to apply for worker adjustment assistance in the case of workers and former workers of RCA Corp., Meadow Lands, Pa. The determination was published in the FEDERAL REGISTER on May 2, 1978 (43 FR 18793).

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 the facts or of the law justifies reconsideration of the decision.

In their application, the petitioners make a basic claim that they should be certified because (1) the Department of Labor's negative determination was based on only TACTEC units and do not consider other plant production, and (2) no other RCA plant has ever been denied eligibility under the Trade Act of 1974.

In defense of their claim, the petitioners note the following:

(1) That the Department of Labor's investigation did not include workers laid off in the production of citizen band tranceivers, language laboratory units and land mobile radio units.

(2) That 50 percent of RCA Meadow Lands' engineering and laboratory employees as well as technical writing, manufacturing and other personnel were affected by layoffs in June 1975, and

(3) That Japanese electronic engineers performed inspection functions at the RCA Meadow Lands plant in 1971 and 1972, and

(4) That a new venture will begin in June 1978 when land mobile units from Japan will be affecting production employees, and

(5) That units and/or components are now being received at RCA Meadow Lands which contain labels indicating foreign manufacture.

Citizen band transceivers and language laboratory units were not pro-

duced at the Meadow Lands plant during a period relevant to the investigation. RCA Meadow Lands' production of citizen band transceivers and language laboratory units ceased in 1965 and 1969, respectively. The Trade Act of 1974 permits coverage of total or partial separations importantly related to import competition to such separations occurring not more than 1 year prior to the date of the petition filed on behalf of the workers. In this case, the petition was dated October 24, 1977; therefore, no worker separated prior to October 24, 1976, could have been covered under a certification. This "1-year rule" vitiates the petitioners' claim for eligibility for the engineering and laboratory personnel laid off in June 1975 and other workers laid off in 1971 and 1972.

The petition submitted on behalf of the workers did not indicate that workers producing land mobile units were intended to be included. Consequently, the original investigation did not consider imports of land mobile units. For the record, it is noted that imports of land mobile radio units decreased from $73.1 million in 1976 to $58.1 million in 1977 and from $37.7 million in the first 6 months of 1977 to $23.1 million in the like period in 1978. The import to production ratio decreased from 10.5 percent in 1976 to 7.1 percent in 1977 and from 9.7 percent in the first 6 months of 16977 to 4.9 percent for the like period in 1978. Given the statutory requirement that there be increased imports of products like or directly competitive with the products produced by the workers, it is apparant that even if the petition covered land mobile units a basis for certification would not exist.

Although it may be true that component parts are imported at the Meadow Lands plant, they are parts which the Meadow Lands plant has never produced. Concerning company imports of land mobile radio units, there are currently agreements for off-shore delivery of two different types of land mobile radio units neither of which has ever been produced at Meadow Lands. Further, these additional types of land mobile radio units are intended to supplement and not compete with the units now being produced at Meadow Lands. Should it develop that the imported land mobile units substitute for units produced at Meadow Lands, a new petition can be filed on behalf of the workers affected by such substitution.

The petitioners' claim that no other RCA plant has ever been denied eligibility is one devoid of merit. The Department of Labor's basis of certification rests solely upon the criteria designated in section 222 of the Trade Act of 1974.

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 29th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-28454 Filed 10-12-78; 8:45 am]

[4510-28—M]

[TA-W-2753]

RIVEREDGE CORP., NEW BEDFORD, MASS.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2753: 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 8, 1977 in response to a worker petition received on November 28, 1977, which was filed on behalf of workers and former workers producing women's and men's garments at Riveredge Corporation, New Bedford, Massachusetts. The Department's investigation revealed that women's dresses, slacks, suits, blouses and jackets and men's vests are produced.

The Notice of Investigation was published in the FEDERAL REGISTER on December 30, 1977 (43 FR 63307). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Riveredge Corporation, its customers, the National Cotton Council of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

Average annual employment of production workers increased from 1975 to 1976 and from 1976 to 1977 and in the first half of 1978 compared to the same period of 1977. There were no significant partial separations during this period.

There is no immediate threat of separations to workers at Riveredge.

CONCLUSION

After careful review I determine that all workers of Riveredge Corporation, New Bedford, Massachusetts 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 25th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28455 Filed 10-12-78; 8:45 am]

[[4516-28-M]

[TA-W-3921]

ROBINSON EXCAVATING & TRUCKING METALINE FALLS, WASH.

Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on June 29, 1978 in response to a worker petition received on June 29, 1978 which was filed on behalf of workers and former workers of Robinson Excavating and Trucking, Metaline Falls, Wash. who hauled ore between the Yellowhead and Pend Oreille mines of Bunker Hill Co., Metaline Falls, Wash.

Notice if Investigation was published in the FEDERAL REGISTER on July 11, 1978 (43 FR 29851). No public hearing was requested and none was held.

During the course of the investigation, it was established that all workers were separated from employment at Robinson Excavating and Trucking at the Yellowhead and Pend Oreille Mines, Metaline Falls, Wash. by June 13, 1977. Section 223(b)(1) of the Trade Act of 1974 states that a certification under this section shall not apply to any worker whose last total or partial separation from the firm or appropriate subdivision of the firm occurred more than twelve months before the date of filing under Title II, Chapter 2 of the Trade Act of 1974.

The filing date of the petition in this case in June 26, 1978. Since workers separated form employment at Robinson Excavating and Trucking prior to June 26, 1977 are not eligible for program benefits under Title II, Chapter 2 Subchapter B of the Trade Act of 1974, continuation of this investigation would serve no purpose. Conse-

quently, the investigation has been terminated.

Signed at Washington, D.C. this 3rd day of October 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-28456 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-2117]

ROMAN CERAMICS CORP., MAYFIELD, KY.

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-2117: 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 1, 1977, in response to a worker petition received on May 31, 1977, which was filed by the International Brotherhood of Pottery and Allied Workers on behalf of workers and former workers producing custom pottery at Roman Ceramics Corp., Mayfield, Ky.

The notice of investigation was published in the FEDERAL REGISTER on June 17, 1977 (42 FR 30938). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Roman Ceramics Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the act must be met. It is concluded that all of the requirements have been met.

Imports of ceramic containers increased from 1975 to 1976 and declined from 1976 to 1977. The 1977 level of imports remained well above the 1973 through 1975 levels. The ratios of imports to domestic production and consumption increased from 34.9 percent and 25.9 percent, respectively, in 1975 to 72.3 percent and 42.0 percent, respectively, in 1976 and then declined to 55.0 percent and 35.5 percent, respectively, in 1977.

Imports increased in the first 5 months of 1978 compared to the same period in 1977. The ratios of imports to domestic production and consumption increased from 82.0 percent and 45.0 percent, respectively, in the January-May period in 1977 to 109.1 percent and 52.2 percent, respectively, in the January-May period in 1978.

Customers of Roman Ceramics are primarily distillers and cosmetic producers. A survey of customers revealed that customers increased purchases of imports from 1976 to 1977 and decreased purchases from Roman Ceramics during the same period.

CONCLUSION

After careful review of the facts obtained in the investigation I conclude that increases of imports of articles like or directly competitive with ceramic containers produced at Roman Ceramics Corp., Mayfield, Ky., contributed importantly to the decline in sales or production and to the total or partial separation of workers at that plant. In accordance with the provisions of the act, I make the following certification:

All workers at Roman Ceramics Corp., Mayfield, Ky. who became totally or partially separated from employment on or after May 26, 1976 and on or before December 31, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974. All workers separated after December 31, 1977 are denied eligibility.

Signed at Washington, D.C., this 29th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28457 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3607]

ROSE MARIE COAT CO., PATERSON, N.J.

Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an 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 Rose Marie Coat Co., Paterson, N.J. During the course of the investigation, it was revealed that Rose Marie Coat Co. also produces ladies' sportswear (component parts for ladies' suits).

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.

Due to the short term of operation of Rose Marie Coat Co., and to the seasonality of the ladies' coat industry, there is not sufficient information in this case upon which to base a determination. In addition, worker qualifying requirements in section 231 of the act may not be met at this time. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 3d day of October 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-28458 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3608]

S & B COAT CO., PATERSON, N.J.

Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, and investigation regarding eligibility to apply for worker adjustment assistance was initiated on May 8, 1978 in response to 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 S & B Coat Co., 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.

Information obtained during the course of the investigation revealed that workers employed at S & B Coat Co. would not meet the qualifying requirements in section 231 of the act.

Production of ladies' coats began in September, 1977 at the S & B Coat Co. Production continued through November 1977, when the company closed. The company reopened for three weeks in May and one week in June before permanently closing on June 23, 1978.

In view of the above facts, further investigation would serve no purpose. Therefore, the investigation is terminated.

Signed at Washington, D.C. this 28th day of September 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-28459 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3497]

S & F COAT CO., INC. BEACON, N.Y.

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-3497: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on April 11, 1978 in response to a worker petition received on March 31, 1978 which was filed by the International Ladies Garment Workers Union on behalf of workers formerly producing ladies' raincoats at S & F Coat Co., Inc., Beacon, N.Y. The investigation revealed that ladies' coats were also produced.

The notice of investigation was published in the FEDERAL REGISTER on May 2, 1978 (43 FR 18790). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from S & F Coat Co., Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group 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 raincoats, the major product of S & F Coat Co., decreased from 261 thousand dozen in 1976 to 242 thousand dozen in 1977. The ratio of imports to domestic production fell from 45.0 percent in 1976 to 40.3 percent in 1977.

A survey of the manufacturers for whom S & F Coat Co., sewed ladies' raincoats and coats on contract indicated that none purchased imported raincoats or coats. None of the manufacturers' sales had declined in 1977 compared to 1976, and their utilization of other domestic contractors during that period had either increased or remained the same.

CONCLUSION

After careful review, I determine that all workers of S & F Coat Co., Inc., Beacon, N.Y. 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 22nd day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28460 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3016]

SENATE BUTTON CO., NEW YORK, N.Y.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3016: 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 2, 1978, in response to a worker petition received on January 19, 1978, which was filed on behalf of workers formerly selling buttons at Senate Button Co., New York, N.Y. Senate Button Co. was a sales outlet and a subsidiary of Button Corp. of America.

The Notice of Investigation was published in the FEDERAL REGISTER on February 17, 1978 (43 FR 7066). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Senate Button Co., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make and 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.

Senate Button Co., a subsidiary of Button Corp. of America, was integrated into the production operation of Button Corp. by being the New York City sales outlet for Button Corp.'s products. Senate Button sold only buttons that had been produced by Button Corp. of America.

U.S. imports of plastic buttons (casein, urea resin, polyester, and acrylic) decreased from 5,870 thousand gross in 1975 to 4,212 thousand gross in 1976 and increased to 7,227 thousand gross in 1977.

A Department survey of customers of Senate Button Co. revealed that major customers increased their purchases of imported buttons in each year from 1975 to 1977 and decreased their purchases from Senate Button Co. during this time period.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with buttons sold by Senate Button Co., New York, N.Y. contributed importantly to the decline in sales 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 Senate Button Co. of New York, N.Y. 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 26th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-28461 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3876]

SILURIA TEXTILES, INC. SILURIA, ALA.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3876: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on June 20, 1978, in response to a worker petition received on June 19, 1978, which was filed on behalf of workers and former workers producing denim fabric at Siluria Textiles, Inc., Siluria, Ala.

The notice of investigation was published in the FEDERAL REGISTER on June 30, 1978 (43 FR 28580). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Siluria Textiles, Inc.; its parent firm, Canton Textile Mills, Inc.; its customers; the American Textile Manufacturers Institute; the U.S. Department of Commerce; the U.S. International Trade Commission; industry analysts; and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. It is concluded that all of the requirements have been met.

The investigation revealed that U.S. imports of bleached and dyed cotton broadwoven fabric increased to 142 million square yards in 1976 compared to 100.5 million square yards in 1975. Imports were 134.7 million square yards in 1977. In the first quarter of 1978 imports increased to 34.4 million square yards compared to 24.8 million square yards for the same quarter in 1977. The imports to domestic produc-

tion ratio for bleached and dyed cotton broadwoven fabric increased from 3.2 percent to 4.1 percent in 1976 and further increased to 4.3 percent in 1977.

Customers surveyed by the Department and accounting for a substantial proportion of Siluria Textiles' 1977 sales of denim fabric indicated that they decreased purchases of denim fabric from Siluria in 1977 and the first half of 1978 and increased purchases of imported denim fabric during this period.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with denim fabric produced by Siluria Textiles, Inc., Siluria, Ala. contributed importantly to the decrease in sales and production and to the separations of workers of that firm. In accordance with the provisions of the act, I make the following certification:

All workers of Siluria Textiles, Incorporated, Siluria, Alabama who became totally or partially separated from employment on or after June 15, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-28462 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-4030]

SPORTSWEAR INTERNATIONAL, INC. JENKINTOWN, PENNSYLVANIA

Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on August 2, 1978 in response to a worker petition received on July 28, 1978 which was filed on behalf of workers and former workers producing knit shirts, sweaters, and woven shirts at Sportswear International, Inc., Jenkintown, Pa.

Notice of the investigation was published in the FEDERAL REGISTER on August 11, 1978 (43 FR 35759). No public hearing was requested and none was held.

During the course of the investigation, it was established that all workers of Sportswear International were separated from employment in March 1977. Section 223(b) of the Trade Act of 1974 states that a certification under this section may not apply to any workers whose last total or partial separation from the firm or appropriate subdivision of the firm occurred more than one year prior to the date of the petition.

The date of the petition in this case is July 14, 1978 and thus, workers terminated prior to July 14, 1977 are not eligible for program benefits under Title II, Chapter 2, Subchapter B of the Trade Act of 1974. The investigation is therefore terminated.

Signed at Washington, D.C. this 26th day of September 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-26463 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3561]

ST. LOUIS-SAN FRANCISCO RAILROAD BIRMINGHAM, ALABAMA

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-3561: 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 14, 1978, which was filed by the United Transportation Union on behalf of workers and former workers transporting all types of commodities at the Birmingham, Ala. terminal of the St. Louis-San Francisco Railroad.

The notice of investigation was published in the FEDERAL REGISTER on May 16, 1978 (43 FR 21069). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from the St. Louis-San Francisco Railroad 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 had 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 connot be considered to be the "workers' firm."

The Department's investigation revealed that the St. Louis-San Francisco Railroad (Frisco RR.) was founded in 1916 and incorporated in Missouri. The railroad has no parent firm, but owns several subsidiaries involved in transportation, real estate, and mineral rights.

The St. Louis-San Francisco Railroad is engaged in transporting all types of commodities over 4,500 miles of company owned track located in 9 States.

The petitioning workers are employed at the Birmingham, Ala. terminal of the St. Louis-San Francisco Railroad. Workers at the Birmingham, Ala. terminal of the Frisco RR are engaged exclusively in transporting commodities and do not produce an article within the meaning of section 222 (3) of the act.

The St. Louis-San Francisco Railroad and its customers have no controlling interest in one another.

All workers engaged in providing transport services at the Birmingham, Ala. terminal of the St. Louis-San Francisco Railroad are employed by that firm. All personnel actions and payroll transactions are controlled by the Frisco RR. All employee benefits are provided and maintained by the Frisco RR. Workers are not, at anytime, under employment or supervision by customers of the St. Louis-San Francisco Railroad. Thus, the St. Louis-San Francisco Railroad must be considered to be the "workers' firm."

CONCLUSION

After careful review, I determine that all workers of the Birmingham Ala. terminal of the St. Louis-San Francisco Railroad 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 29th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-28464 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3670]

SUPER CRAFT COATS, INC., GARFIELD, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3670: 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 Super Craft Coats, Inc., Garfield, N.J. The investigation revealed that ladies' coats, jackets, and raincoats are produced.

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 Super Craft Coats, Inc., its customers (manufacturers), the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the act must be met. The Department's investigation revealed that all of the requirements have been met.

U.S. imports of women's, misses', and children's coats and jackets increased from 2,252 thousand dozen in 1976 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.

U.S. imports of women's, misses', and children's raincoats decreased from 261 thousand dozen in 1976 to 242 thousand dozen in 1977. Imports increased from 84 thousand dozen in the first quarter of 1977 to 129 thousand dozen in the first quarter of 1978. The ratio of imports to domestic production decreased from 45.0 percent in 1976 to 40.3 percent in 1977.

The Department conducted a survey of the principal manufacturers for which Super Craft Coats, Inc., worked in 1976 and 1977. Manufacturers that accounted for a majority of sales in 1976 reduced purchases from Super Craft and increased purchases of imported coats and jackets in 1977 compared to 1976. Manufacturers that accounted for a majority of sales in 1977 reduced purchases from Super Craft 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, jackets, and raincoats produced at Super Craft Coats Inc., Garfield, 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 Super Craft Coats Inc., Garfield, N.J., 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 25th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28465 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3338]

TELEDYNE VASCO, INC., MONACA, PA.

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-3883: Investigation regarding eligibility to apply for workers 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 16, 1978, which was filed by the United Steelworkers of America on behalf of all workers producing specialty steel flat rolled products at the Monaca, Pa., plant of the Teledyne Vasco Co., Inc.

The notice of Investigation was published in the FEDERAL REGISTER on June 30, 1978 (43 FR 28579). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Teledyne Vasco, Inc., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by 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 Monaca, Pa., plant of Teledyne Vasco produces tool steel. Teledyne Vasco also owns a plant in Latrobe, Pa., which produces tool steel.

Evidence developed during the investigation revealed that production equipment from the Monaca, Pa., plant of Teledyne Vasco has been gradually transferred from the Monaca plant to the Latrobe plant during the last 8 years. Further evidence revealed that as sales, production, and employment have declined at the Monaca plant, sales production and employment have increased at the Latrobe plant. It is therefore concluded that employment losses at the Monaca, Pa., plant of Teledyne are attributed to the transfer of production equipment to the Latrobe, Pa., plant and not to increases of imports of articles like or directly competitive with tool steel produced at the Monaca, Pa., plant of Teledyne Vasco.

CONCLUSION

After careful review I determine that all workers at the Monaca, Pa., plant of Teledyne Vasco 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 22d day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-28466 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3539]

LAMSON AND SESSIONS CO. CLEVELAND, OHIO

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3539: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on April 25, 1978 in response to a worker petition received on April 12, 1978 which was filed by the United Auto Workers on behalf of workers and former workers producing threaded screws and nuts at the Cleveland, Ohio plant of Lamson and Sessions Co.

The Notice of Investigation was published in the FEDERAL REGISTER on May 5, 1978 (43 FR 19478-19479). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Lamson and Sessions Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. The investigation revealed that all of the requirements have been met.

U.S. imports of bolts increased both absolutely and relative to domestic production during 1976 compared to 1975 and during 1977 compared to 1976. Imports of bolts increased absolutely during the first quarter of 1978 compared to the first quarter of 1977. U.S. imports of large screws increased absolutely during the first quarter of 1978 compared to the first quarter of 1977. U.S. imports of nuts increased relative to domestic production during 1977 compared to 1976, and increased absolutely during the first quarter of 1978 compared to the first quarter of 1977.

Lamson and Sessions' Cleveland plant produced primarily standard bolts and screws during 1976 and 1977.

Customers of products produced at the Cleveland plant were surveyed by the Department. Several of the customers increased purchases of imported fasteners while reducing purchases from the Cleveland plant of Lamson and Sessions Co.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with threaded screws and nuts produced at the Cleveland, Ohio plant of Lamson and Sessions Co. contributed importantly to the total or partial separation of workers and to the decline in sales and production at that plant. In accordance with the provisions of the act, I make the following certification:

All workers of the Cleveland, Ohio plant of Lamson and Sessions Co. who became totally or partially separated from employment on or after April 30, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 25th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management. Administration and Planning.

[FR Doc. 78-28467 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-2990]

TIMET DIVISION, TITANIUM METALS CORP. OF AMERICA, TORONTO, OHIO

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2990: 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 10, 1978, which was filed by the United Steelworkers of America on behalf of workers and former workers producing titanium mill products at the Toronto, Ohio plant of the Timet Division of the Titanium Metals Corp. of America.

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 the Titanium Metals Corp. of America, 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 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 threats thereof, and to the absolute decline in sales or production.

U.S. exports of titanium mill products have exceeded imports of each year since 1973. The ratio of imports of titanium mill products to domestic production was 2.23 percent in 1976 and 2.29 percent in 1977.

Customers of the Timet Division who were surveyed reported that they have not increased purchases of imported titanium mill products during 1977 and 1978 while decreasing purchases of domestic titaniun mill products.

CONCLUSION

After careful review, I determine that workers of the Timet Division of the Titanium Metals Corp. of America, Toronto, 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 25th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-28468 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3683]

TONY'S OUTLET, INC. LODI, N.J.

Termination of Investigation

Pursuant to section 231 of the Trade Act of 1974, an 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 spring blazers at Colleen Fashions, Inc., Lodi, N.J. During the course of the investigation it was determined that the name of the company is Tony's Outlet, Inc., and it produces ladies spring blazers and winter coats.

The Notice of Investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

Due to the short term of operation of Tony's Outlet and to the seasonality of the ladies coat industry, there is not sufficient information in this case upon which to base a determination. In addition, worker qualifying requirements in section 231 of the Act may not be met at this time. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 3rd day of October 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-28469 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3458]

UNION CARBIDE CORP., METALS DIVISION MINE AND MILL, HOT SPRINGS, ARK.

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-3458: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was intiated on March 30, 1978, in response to a worker petition received on March 22, 1978, which was filed by the United Steelworkers of America on behalf of workers and former workers mining and processing vanadium ore at the Hot Springs, Ark., Metals Division Mine and Mill of Union Carbide Corp.

The Notice of Investigation was published in the FEDERAL REGISTER on April 25, 1978 (43 FR 17551). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Union Carbide Corp., its customers, the U.S. Department of Interior the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threats thereof, and to the absolute decline in sales or production.

The Hot Springs plant consists of open pit mines and a milling facility. The plant produces vanadium trioxide which is an intermediate product used in the production of vanadium ferroalloys at other Union Carbide plants.

Imports of vanadium ferroalloys increased in 1976 from 1975 and increased 90 percent in 1977 from 1976. The ratio of imports to domestic production increased from 4.2 percent in 1976 to 6.5 percent in 1977.

A survey of customers of Union Carbide revealed minimal impact of imports on Union Carbide's sales of vanadium ferroalloys. Customers who reported purchases of imported vanadium ferroalloys accounted for less than 3 percent of the net decline in Union Carbide sales in 1977 from 1976. The consensus among the customers surveyed was that there is little or no import influence in the vanadium ferroalloy market.

The closing of the Hot Springs facilities was due, in part, to decreased demand in 1977 for vanadium in the United States and world market. The market for vanadium is closely tied with economic growth, primarily in the transportation and construction industries. U.S. exports of vanadium ferroalloys, which exceeded imports by 134 percent in 1976, decreased 35 percent in 1977 from 1976 due to the slow recovery of the world economy. Total curtailment of domestic production by Union Carbide was at the Hot Springs facilities rather than at its Colorado vanadium producing facility because at the Colorado facility vanadium is produced as a by-product of uranium production and the current demand for uranium is high.

Conclusion

After careful review I determine that all workers at the Hot Springs, Ark., Metals Division Mine and Mill of Union Carbide 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 27th day of September 1978.

James F. Taylor,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28470 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3818]

UPTEGRAFF TRANSFORMER CO., SUMERSET, PA.

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-3818: 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 7, 1978, in response to a worker petition received on June 5, 1978 which was filed on behalf of workers formerly producing distribution tansformers at Uptegraff Transformer Co., Somerset, Pa. Uptegraff Transformer Co. is a subsidiary of R. E. Uptegraff Manufacturing Co. of Scottdale, Pa.

The notice of investigation was published in the Federal Register on June 20, 1978 (43 FR 26499). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Uptegraff Transformer Co., its customers, *Electrical Week*, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of distribution transformers decreased from 27.3 thousand units in 1976 to 25.2 thousand units in 1977. Imports of transformers in the first half of 1978 decreased to 5.8 thousand units, compared to 19.5 thousand units in the same period in 1977. The ratio of imports to domestic production declined from 3.1 percent in 1976 to 2.3 percent in 1977; and in the first half of 1978, the ratio declined to 0.9 percent compared to 3.7 percent in the same period in 1977.

A survey of the customers of Uptegraff Transformer Co. revealed that none of the customers had purchased imported distribution transformers during 1976, 1977, or the first 6 months of 1978.

Conclusion

After careful review, I determine that all workers of Uptegraff Transformer Co., Somerset, 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 29th day of September 1978.

James F. Taylor,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28471 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3141]

VALLEY MANUFACTURING CO., BUCHANAN, VA.

Determinations 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-3141: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on February 15, 1978 in response to a worker petition received on February 2, 1978 which was filed by the Virginia Employment Commission on behalf of workers and former workers producing nurses and waitresses uniforms at the Buchanan, Va. plant of Valley Manufacturing Co. The investigation revealed that the petition was filed by the International Ladies Garment Workers Union and that workers produced women's dresses and pant suits, and uniforms which were dresses and pant suits.

The Notice of Investigation was published in the Federal Register on February 28, 1978 (43 FR 8209). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Valley Manufacturing Co., its customers, Genesco, Inc., the National Cotton Council of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of

eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the act must be met. With respect to workers producing dresses, 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.

Evidence developed during the course of the investigation revealed that the impact of imports of dresses in the domestic market has not been significant.

U.S. imports of women's, misses', and children's dresses decreased absolutely in 1976 compared to 1975, and decreased in 1977 compared to 1976. The ratios of imports of dresses to domestic production and consumption were constant from 1975 to 1976, then decreased in 1977 compared to 1976.

With respect to workers producing pant suits, all of the group eligibility requirements of section 222 of the act have been met. U.S. imports of women's, misses', and children's slacks and shorts increased both absolutely and relative to domestic production and consumption in 1976 compared to 1975, and increased in 1977 compared to 1976.

U.S. imports of women's, misses' and children's blouses and shirts increased absolutely in 1976 compared to 1975 and increased in 1977 compared to 1976. The ratio of imports of blouses and shirts to domestic production decreased in 1976 compared to 1975, and decreased in 1977 compared to 1976.

A survey of some customers of Valley Manufacturing was conducted by the Department. The survey indicated that customers had reduced purchases of pant suits from Valley Manufacturing and increased purchases of imported pant suits in 1977 compared to 1976.

CONCLUSIONS

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with pant suits produced by the Buchanan, Va. plant of Valley Manufacturing Co. contributed importantly to the decline in sales or production and to the total separation of workers at this plant. In accordance with the provisions of the act, I make the following certification:

All workers engaged in the production of pant suits at the Buchanan, Va. plant of the Valley Manufacturing Co. who became totally or partially separated from employment on or after January 27, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

I further determine that all workers engaged in the production of dresses at the Buchanan, Va. plant of Valley 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 25th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-28472 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3142]

VALLEY MANUFACTURING CO., RADFORD, VA.

Determinations 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-3142: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on February 15, 1978 in response to a worker petition received on February 2, 1978 which was filed by the Virginia Employment Commission on behalf of workers and former workers producing nurses and waitresses uniforms at the Radford, Va. plant of Valley Manufacturing Co. The investigation revealed that the petition was filed by the International Ladies Garment Workers Union and the workers produced women's dresses and pant suits, and uniforms which were dresses and pant suits.

The Notice of Investigation was published in the FEDERAL REGISTER on February 28, 1978 (43 FR 8209). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Valley Manufacturing Co., its customers, Genesco, Inc., the National Cotton Council of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the act must be met. With respect to workers producing dresses, 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.

Evidence developed during the course of the investigation revealed that the impact of imports of dresses in the domestic market has not been significant.

U.S. imports of women's, misses's, and children's dresses decreased absolutely in 1976 compared to 1975, and decreased in 1977 compared to 1976. The ratios of imports of dresses to domestic production and consumption were constant from 1975 to 1976, then decreased in 1977 compared to 1976.

With respect to workers producing pant suits, all of the group eligibility requirements of section 222 of the act have been met. U.S. imports of women's, misses' and children's slacks and shorts increased both absolutely and relative to domestic production and consumption in 1976 compared to 1975, and increased in 1977 compared to 1976.

U.S. imports of women's, misses' and children's blouses and shirts increased absolutely in 1976 compared to 1975 and increased in 1977 compared to 1976. The ratio of imports of blouses and shirts to domestic production decreased in 1976 compared to 1975, and decreased in 1977 compared to 1976.

A survey of some customers of Valley Manufacturing was conducted by the Department. The survey indicated that customers had reduced purchases of pant suits from Valley Manufacturing and increased purchases of imported pant suits in 1977 compared to 1976.

CONCLUSIONS

After careful review of the facts obtained in the investigation, I conclude the increases of imports of articles like or directly competitive with pant suits produced by the Radford, Va. plant of Valley Manufacturing Co. contributed importantly to the decline in sales or production and to the total separation of workers at this plant. In accordance with the provisions of the act, I make the following certification:

All workers engaged in the production of pant suits at the Radford, Va. plant of the Valley Manufacturing Co. who became totally or partially separated from employment on or after January 27, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

I further determine that all workers engaged in the production of dresses at the Radford, Va. plant of Valley 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 25th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-28473 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3140]

VALLEY MANUFACTURING CO., ROANOKE, VA.

Determinations 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-3140: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on February 15, 1978 in response to a worker petition received on February 2, 1978 which was filed by the Virginia Employment Commission on behalf of workers and former workers producing nurses and waitresses uniforms at the Roanoke, Va. plant of Valley Manufacturing co. The investigation revealed that the petition was filed by the International Ladies Garment Workers Union and that workers produced women's dresses and pant suits, and uniforms which were dresses and pant suits.

The Notice of Investigation was published in the FEDERAL REGISTER on February 28, 1978 (43 FR 8209). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Valley Manufacturing Co., its customers, Genesco, Inc., the National Cotton Council of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the act must be met. With respect to workers producing dresses, 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.

Evidence developed during the course of the investigation revealed that the impact of imports of dresses in the domestic market has not been significant.

U.S. imports of women's, misses', and children's dresses decreased absolutely in 1976 compared to 1975, and decreased in 1977 compared to 1976. The ratios of imports of dresses to domestic production and consumption were constant from 1975 to 1976, then decreased in 1977 compared to 1976.

With respect to workers producing pant suits, all of the group eligibility requirements of section 22 of the act have been met. U.S. imports of women's, misses' and children's slacks and shorts increased both absolutely and relative to domestic production and consumption in 1976 compared to 1975, and increased in 1977 compared to 1976.

U.S. imports of women's, misses' and children's blouses and shirts increased absolutely in 1976 compared to 1975 and increased in 1977 compared to 1976. The ratio of imports of blouses and shirts to domestic production decreased in 1976 compared to 1975, and decreased in 1977 compared to 1976.

A survey of some customers of Valley Manufacturing was conducted by the Department. The survey indicated that customers had reduced purchases of pant suits from Valley Manufacturing and increased purchases of imported pant suits in 1977 compared to 1976.

CONCLUSIONS

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with pant suits produced by the Roanoke, Va. plant of Valley Manufacturing Co. contributed importantly to the decline in sales or production and to the total separation of workers at this plant. In accordance with the provisions of the act, I make the following certification:

All workers engaged in the production of pant suits at the Roanoke, Va. plant of the Valley Manufacturing Co. who became totally or partially separated from employment on or after January 27, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

I further determine that all workers engaged in the production of dresses at the Roanoke, Va. plant of Valley 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 25th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-28474 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3713]

VULCAN CORP., WALNUT RIDGE, ARK.

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-3713: 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 shoe lasts (form the shoe is made on) at the Walnut Ridge, Ark. plant of the Vulcan Corp.

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 the Vulcan Corp. its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the 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 separation, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of shoe lasts were negligible in 1975, 1976, and 1977. Imports were also negligible in the first 6 months of 1978.

Evidence developed during the course of the investigation revealed that customers of Vulcan who responded to a Departmental survey purchased no imported shoe lasts in 1976, 1977, or the first 6 months of 1978. These results are consistent with industry data, which show negligible imports of shoe lasts during the past 5 years.

CONCLUSION

After careful review I determine that all workers of the Vulcan Corp. Walnut Ridge, Ark. 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 22nd day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-28475 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3419]

WEAN UNITED, INC. CRESCENT STREET PLANT, YOUNGSTOWN, OHIO

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3419: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on March 27, 1978 in response to a worker petition received on March 8, 1978 which was filed by the International Association of Machinists and Aerospace Workers on behalf of workers and former workers producing iron rolls at the Crescent Street, Youngstown, Ohio Plant (plant 16) of Wean United, Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on April 11, 1978 (43 FR 15205). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Wean United, 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. 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 an appropriate subdivision have contributed importantly to such total or partial separations, or threats thereof, and to the absolute declines in sales or production.

The Department's investigation revealed that U.S. imports of rolling mill machinery and parts increased from 21.0 million dollars in 1975 to 29.5 million dollars in 1976, and decreased to 17.4 million dollars in 1977. The ratio of imports to domestic production increased from 3.7 percent in 1975 to 4.7 percent in 1976, and decreased to 2.6 percent in 1977.

Imports figures for rolls are not available under a separate TSUSA number; therefore, the Department surveyed major importers of rolls. The survey indicated that imports of rolls decreased 30 percent from 1976 to 1977.

Sales and production of rolls at the Crescent Street, Youngstown, Ohio plant of Wean United, Inc. increased in terms of both quantity and value in the first quarter of 1978 compared to the same quarter of 1977 and compared to the previous quarter.

CONCLUSION

After careful review of the facts obtained in the investigation, I determine that all workers of the Crescent Street, Youngstown, Ohio plant (plant 16) of Wean United, Inc. 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 25th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-28476 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3562]

WEBSTER SPORTSWEAR CORP., FRANKLIN, N.H.

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-3562: 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 14, 1978 which was filed on behalf of workers and former workers producing ladies' dresses, skirts, pants and tops at Webster Sportswear Corp., Franklin, N.H. During the course of the Department's investigation it was revealed that "tops" referred to blazers and vests.

The notice of investigation was published in the FEDERAL REGISTER on May 16, 1978 (43 FR 21069). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Webster Sportswear Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. 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.

A survey of manufacturers for whom Webster Sportswear did contract work revealed that the manufacturers reported increased sales. The one manufacturer, who purchases imports indicated that import purchases declined in 1977 compared to 1976.

CONCLUSION

After careful review, I determine that all workers of Webster Sportswear Corp., Franklin, N.H. 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 29th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-28477 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3755]

WERTHAN INDUSTRIES, INC., PRINTING AND FINISHING DIVISION, NASHVILLE, TENN.

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-3755: 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 23, 1978 in response to a worker petition received on May 18, 1978 which was filed on behalf of workers and former workers producing printed and finished fabric at Werthan Industries, Inc., Printing and Finishing Division, Nashville, Tenn.

The Notice of Investigation was published in the FEDERAL REGISTER on June 6, 1978 (43 FR 24633). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Werthan Industries, Inc., its customers, the American Textile Manufacturers Institute, the U.S. Department of Com-

merce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The petition alleges that imports of finished garments (men's shirts and pajamas) have contributed to decreased sales and employment at Werthan Industries. Imported wearing apparel cannot be considered to be like or directly competitive with finished fabric. Imports of all types of finished fabric must be considered in determining import injury to workers producing finished fabric at Werthan Industries.

Aggregate imports of all finished fabric (bleached, dyed, and printed) declined absolutely from 1976 to 1977 and then increased in the first quarter of 1978 compared to the same period in 1977. The ratio of imports to domestic production and consumption remained less than 2 percent from 1974 through 1976.

Customers who purchased finished fabric from Werthan Industries were surveyed. The survey revealed that customers did not purchase imported fabric during the period from 1976 through the first quarter of 1978.

CONCLUSION

After careful review I determine that all workers of Werthan Industries, Inc., Printing and Finishing Division, Nashville, Tenn. 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 29th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28478 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3911]

WHEEELING-PITTSBURGH STEEL CORP. ADMINISTRATIVE OFFICES, WHEELING, W. VA.

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-3911: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in sction 222 of the act.

The investigation was initiated on June 26, 1978 in response to a worker petition received on June 26, 1978 which was filed on behalf of workers and former workers engaged in employment related to the production of various steel products at the administrative offices of Wheeling-Pittsburgh Steel Corp., Wheeling, W. Va.

The Notice of Investigation was published in the FEDERAL REGISTER on July 7, 1978 (43 FR 29364-5). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Wheeling-Pittsburgh Steel Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the American Iron & Steel Institute, 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.

Workers producing over 90 percent of Wheeling-Pittsburgh Steel Corp's. output have been certified eligible to apply for adjustment assistance by the Department in previous determinations.

(See TA-W-1397, 1472, 1572, 2742, 2743, 2744, 2745, 2746.)

CONCLUSION

After careful review of the facts obtained in the investigation I conclude that increases of imports of articles like or directly competitive with various steel products produced by Wheeling-Pittsburgh Steel Corp., contributed importantly to the decline in production and to the total or partial separation of workers at the administrative offices of Wheeling-Pittsburgh Steel Corp., Wheeling, W. Va.

In accordance with the provisions of the act, I make the following certification:

All workers of the administrative offices of Wheeling-Pittsburgh Steel Corporation, Wheeling, West Virginia who became totally or partially separated from employment on or after June 20, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 25th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28479 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3912]

WHEELING-PITTSBURGH STEEL CORP. EXECUTIVE OFFICES, PITTSBURGH, PA.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3912: 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 26, 1978 which was filed on behalf of workers and former workers engaged in employment related to the production of various steel products at the executive offices of Wheeling-Pittsburgh Steel Corp., Pittsburgh, Pa. The petition was expanded by the Department to include workers at the district sales offices of Wheeling-Pittsburgh Steel Corp. listed in the appendix to this Notice.

The Notice of Investigation was published in the FEDERAL REGISTER on July 7, 1978 (43 FR 29364-5). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Wheeling-Pittsburgh Steel Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the American Iron and Steel Institute, 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.

Workers producing over 90 percent of Wheeling-Pittsburgh Steel Corp.'s output have been certified eligible to apply for adjustment assistance by the Department in previous determinations.

(See TA-W-1397, 1472, 1572, 2742, 2743, 2744, 2745, 2746.)

APPENDIX

TA-W-3911—Administrative Offices, 1134 Market Street, Wheeling, W. Va.
TA-W-3912—Executive Offices, 4 Gateway Center, Pittsburgh, Pa., and the following District sales offices.

STATE/ADDRESS

California—6151 W. Century Blvd., Suite 908, Los Angeles 90045.
Georgia—P.O. Box 18824, Lenox Square Station, Atlanta 30326.
Illinois—903-6 McCormick Bldg., 322 S. Michigan Ave., Chicago 60604.
Indiana—6100 N. Keystone Ave., Indianapolis 46220.
Michigan—24700 Northwestern Hwy., Southfield 48075. 405-G Waters Bldg., 161 Ottowa NW., Grand Rapids 49502.
Missouri—Suite 100, Clayton Plaza Bldg., 7700 Clayton Road, St. Louis 63117.
New Jersey—Park 80 Plaza West, Saddlebrook 07662.
Ohio—Westgate Plaza, 20325 Center Ridge Rd., Cleveland 44116. 3131 S. Dixie Dr., Dayton 45349.
Oklahoma—Philtower Bldg., Tulsa 74103.
Pennsylvania—4 Gateway Center, Pittsburgh 15230. One Bala Ave., Bala Cynwyd 19004.
Texas—2004 Bank of The Southwest Bldg., Houston 77002. 1407 Main St., Dallas 75202.

CONCLUSION

After careful review of the facts obtained in the investigation I conclude that increases of imports of articles like or directly competitive with various steel products produced by Wheeling-Pittsburgh Steel Corp., contributed importantly to the decline in production and to the total or partial separation of workers at the executive offices of Wheeling-Pittsburgh Steel Corp., Pittsburgh, Pa. and the district sales offices of Wheeling-Pittsburgh Steel Corp. listed in the appendix to this Notice.

In accordance with the provisions of the act, I make the following certification:

All workers of the executive offices of Wheeling-Pittsburgh Steel Corp., Pittsburgh, Pa. and the district sales offices of Wheeling-Pittsburgh Steel Corp. listed in the appendix to this notice who became totally or partially separated from employment or on after June 20, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 25th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28480 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3695]

WILLIAM P. GOLDMAN AND BROTHERS BROOKLYN N.Y. NEW YORK, N.Y.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3695: 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 May 2, 1978 which was filed on behalf of workers and former workers producing men's and boys' suits, sportcoats, slacks and outercoats at William P. Goldman and Brothers, Brooklyn, N.Y. In the course of the investigation, it was determined that William P. Goldman and Brothers also maintained offices in New York, N.Y.

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 William P. Goldman and Brothers, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. It is concluded that all of the requirements have been met.

U.S. imports of men's and boys' tailored dress coats and sportcoats increased form 5,465,000 units in 1975 to 6,965,000 units in 1976, before declining to 6,269,000 units in 1977. Imports increased from 1,323,000 units in the first quarter of 1977 to 1,777,000 units in the first quarter of 1978. The ratio of imported tailored dress coats and sportcoats to domestic production increased from 28.2 percent in 1976 to 30.0 percent in 1976 and then declined to 26.5 percent in 1977.

U.S. imports of men's and boys' tailored suits increased from 3,106,000 units in 1975 to 3,562,000 units in 1976 and to 4,091,000 units in 1977. Imports declined from 1,834,000 units in the first quarter of 1977 to 1,132,000 units in the first quarter of 1978. The ratio of imported suits to domestic production increased from 19.0 percent in 1976 to 20.0 percent in 1977.

U.S. Imports of men's and boys' dress and sport trousers and shorts increased from 55,508,000 units in 1975 to 73,209,000 units in 1976 and to 76,419,000 units in 1977. Imports increased again from 17,152,000 units in the first quarter of 1977 to 24,039,000 units in the first quarter of 1978. The ratio of imported dress and sport trousers and shorts to domestic production increased from 34.1 percent in 1975 to 40.9 percent in 1976 and then declined to 38.0 percent in 1977.

U.S. imports of men's and boys' outercoats and jackets increased from 20,034,000 units in 1975 to 22,060,000 units in 1976 and to 27,432,000 units in 1977. Imports increased from 5,438,000 units in the first quarter of 1977 to 6,048,000 units in the first quarter of 1978. The ratio of imported outercoats and jackets to domestic production increased from 28.1 percent in 1975 to 29.6 percent in 1976 and to 35.3 percent in 1977.

A survey was conducted by the Department of Labor among the retail customers of William P. Goldman and Brothers. The survey revealed that, from 1976 to 1977 and during the first quarter of 1978 as compared to the first quarter 1977, several customers decreased their purchases from Goldman and increased imports of men's and boys' suits, sportcoats, slacks and outercoats either directly from foreign sources or indirectly from other domestic sources, which sell garments that have been manufactured offshore.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's and boys' suits, slacks, sportcoats and outercoats produced by the Brooklyn, N.Y. plant of William P. Goldman and Brothers contributed importantly to the decline in sales and production and to the total or partial separation of workers at that plant and at the New York, N.Y. offices.

In accordance with the provisions of the act, I make the following certification:

All workers at the Brooklyn, N.Y. plant and at the New York, N.Y. offices of William P. Goldman and Brothers who became totally or partially separated from employment on or after October 21, 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 29th day of September 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-28481 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3754]

W & W ELECTRONICS, BOSTON, MASS.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3754: 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 23, 1978 in response to a worker

petition received on April 14, 1978 which was filed on behalf of workers and former workers producing printed circuit boards at W & W Electronics, Boston, Mass.

The Notice of Investigation was published in the FEDERAL REGISTER on June 6, 1978 (43 FR 24633-24634). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of W & W Electronics, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met.

The investigation revealed that, 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.

Contractors who accounted for over 80 percent of sales by W & W Electronics during the period under investigation indicated that they did not purchase any imported printed circuit boards and did not contract with offshore firms to produce such electronic components.

CONCLUSION

After careful review, I determine that workers of W & W Electronics, Boston, Mass. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 25th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28482 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3348]

AQUADA PRODUCTS, INC., LONG ISLAND CITY, N.Y.

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-3348: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 15, 1978 in response to a worker petition received on February 21, 1978, which was filed on behalf of workers and former workers producing heat-sealed vinyl products at Aquada Products, Inc., Long Island City, N.Y.

The notice of investigation was published in the FEDERAL REGISTER on April 7, 1978 (43 FR 14774). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Aquada Products, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Department's investigation revealed that the ratio of imports of miscellaneous plastic products to domestic production was only 1.7 percent in 1975, 2.1 percent in 1976 and decreased to 2.0 percent in 1977. This negligible influence by imports in the domestic market is reflected in the results of the customer survey. The Department conducted a survey of customers of Aquada Products, Inc., representing a major proportion of 1976 sales. The survey revealed that none of those customers reported puchasing imports in 1976. The survey further indicated that in 1977 customers who reduced purchases from Aquada did not purchase imports.

CONCLUSION

After careful review I determine that all workers of Aquada Products, Inc., Long Island City, 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 4th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28883 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3170]

DELTON CLOTHING, LTD., NEW YORK, N.Y.

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-3170: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on February 21, 1978, in response to a worker petition received on February 6, 1978 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing men's sport coats and suit coats at Delton Clothing, Ltd., New York, N.Y. During the course of the investigation, it was established that Delton Clothing Ltd., produces men's tailored sportcoats and suits.

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 officials of Delton Clothing, Ltd., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

The workers at Delton Clothing, Ltd., were certified as eligible to apply for trade adjustment assistance on January 17, 1976 (TA-W-300). That certification expired on January 17, 1978.

The Department's investigation revealed that average employment of production workers at Delton Clothing, Ltd. increased in the first 6 months of 1978 compared to the same period of 1977. There were no significant partial separations at Delton Clothing.

There is no immediate threat of separations to workers at Delton Clothing.

CONCLUSION

After careful review, I determine that all workers at Delton Clothing, Ltd., New York, N.Y. 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 4th day of October, 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28884 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3621]

EMIL FASHIONS, INC., HOBOKEN, N.J.

Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an 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 jackets at Jay Cee Coats, Hoboken, N.J. During the course of the investigation, it was revealed that the name of the company was Emil Fashions, Inc. and it produces ladies' coats.

The notice of investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

Due to the short term of operation of Emil Fashions and to the seasonality of the ladies' coat industry, there is not sufficient information in this case upon which to base a determination. In addition, worker qualifying requirements in Section 231 of the Act may not be met at this time. Consequently, he investigation has been terminated.

Signed at Washington, D.C. this 3rd day of October 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-28885 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3764]

FUR MODES, INC., JERSEY CITY, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3764: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 24, 1978 in response to a worker petition received on April 28, 1978 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats at Fur Modes, Inc., Jersey City, N.J.

The notice of investigation was published in the FEDERAL REGISTER on June 6, 1978 (43 FR 24634-35). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Fur Modes, 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.

United States imports of women's, misses', and children's coats and jackets increased in 1975 to 1,517 thousand dozen, increased in 1976 to 2,252 thousand dozen, and increased in 1977 to 2,723 thousand dozen.

The imports to domestic production ratio for woman's, misses', and children's coats and jackets increased in 1975 to 38.9 percent, increased in 1976 to 48.3 percent, and increased in 1977 to 54.9 percent.

A Department survey of manufacturers who contract with Fur Modes, Inc. revealed that one of the manufacturers, representing a substantial proportion of Fur Modes' sales in 1977, began importing ladies' winter coats during the last quarter of 1977. This manufacturer further increased his purchases from foreign sources during the period January-June 1978 and ceased all contract work with Fur Modes during the same period.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' man-made fur coats produced by Fur Modes, Inc., Jersey City, N.J., contributed importantly to the decline in sales and to the total or partial separation fo workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers at Fur Modes, Inc., Jersey City, N.J. who became totally or paritally separated from employment on or after September 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 4th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28886 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3176]

GEORGE HELLER, INC., NEW YORK, N.Y.

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-3176: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on February 21, 1978 in response to a worker petition received on February 6, 1978 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing men's trousers at George Heller, Inc., New York, N.Y.

The notice of investigation was published in the FEDERAL REGISTER on March 3, 1978 (43 FR 8864). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of George Heller, Inc., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That a significant number of proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

The workers at George Heller, Inc., were certified as eligible to apply for trade adjustment assistance on January 17, 1976 (TA-W-300). That certification expired on January 17, 1978.

The Department's investigation revealed that there were no layoffs and no reduction in average hours worked at George Heller, Inc. since the expiration of the certification. Employment and hours worked have not changed from February, 1977 through June, 1978, and no change is expected in the foreseeable future.

There is no immediate threat of separations to workers at George Heller.

CONCLUSION

After careful review I determine that all workers at George Heller, Inc., New York, N.Y. 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 4th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28887 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3879]

IRVING SPORTSWEAR, GARFIELD, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3879: 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 28, 1978, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' sportswear at Irving Sportswear, Garfield, N.J.

The notice of investigation was published in the FEDERAL REGISTER on June 30, 1978 (43 FR 28579). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Irving Sportswear, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. The Department's investigation revealed that all of the requirements have been met.

U.S. imports of women's, misses', and children's suits decreased from 408,000 dozen in 1976 to 384,000 dozen in 1977. Imports increased from 62,000 dozen in the first quarter of 1977 to 104,000 in the first quarter of 1978. The ratio of imports to domestic production decreased from 11.4 percent in 1976 to 10.5 percent in 1977.

U.S. imports of women's, misses', and children's skirts decreased from 791,000 dozen in 1976 to 654,000 dozen in 1977. Imports increased for 103,000 dozen in the first quarter of 1977 to 296,000 dozen in the first quarter of 1978. The ratio of imports to domestic production decreased from 14.2 percent in 1976 to 10.5 percent in 1977.

The Department conducted a survey of the principal manufacturers for which Irving Sportswear worked in 1976 and 1977. Manufacturers that accounted for a majority of sales in 1976 reduced purchases from Irving Sportswear and increased purchases of import in 1977 compared to 1976. Manufacturers that accounted for a majority of sales in 1977 reduced purchases from Irving Sportswear and increased purchases of imports in 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 increased imports of articles like or directly competitive with the ladies' skirts, slacks, and vests produced at Irving Sportswear, Garfield, 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 Irving Sportswear, Garfield, 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 29th day of September 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28888 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3677]

J AND R MANUFACTURING CO., INC., NEWARK, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3677: 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' raincoats at J and R Manufacturing Co., Inc., Newark, N.J. The investigation revealed that women's and children's coats and raincoats are produced.

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 J and R Manufacturing Co., Inc., its customers (manufacturers), the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. It is concluded 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.

U.S. imports of women's, misses', and children's raincoats decreased from 261 thousand dozen in 1976 to 242 thousand dozen in 1977. Imports increased from 84 thousand dozen in the first quarter of 1977 to 129 thousand dozen in the first quarter of 1978. The ratio of imports to domestic production decreased from 45.0 percent in 1976 to 40.3 percent in 1977.

The Department conducted a survey of the principal manufacturers for which J and R Manufacturing Co., Inc., worked in 1976 and 1977. Manufacturers that accounted a majority of sales in 1977 reduced purchases from J and R Manufacturing Co., Inc., and increased purchases of imported women's coats and raincoats 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 increases of imports of articles like or directly competitive with the women's and children's coats and raincoats produced at J and R Manufacturing Co., Inc., Newark, N.J., contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of J and R Manufacturing Co., Inc., Newark, N.J., who became totally or partially separated from employment on or after November 1, 1977 and before April 1, 1978, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974. All workers of J and R Manufacturing Co., Inc., who became totally or partially separated from employment on or after April 1, 1978, are denied eligibility to apply for adjustment assistance.

Signed at Washington, D.C., this 4th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28889 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3173]

LEXCRAFT, INC., FALL RIVER, MASS.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3773: Investigation regarding certification of eligility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 25, 1978, in response to a worker petition received on May 23, 1978, which was filed on behalf of workers and former workers producing ladies' loungewear and sleepwear at the Fall River, Mass., plant of Lexcraft, Inc.

The notice of investigation was published in the FEDERAL REGISTER on June 9, 1978 (43 FR 25197-98). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Lexcraft, Inc., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met.

That sales or production, or both, of the firm or subdivision have decreased absolutely.

Production of ladies' sleepwear and loungewear by Lexcraft increased in quantity from 1976 to 1977, and increased in the first 5 months of 1978 compared to the same period of 1977. Production increased in each of the last three quarters of 1977 and in the first quarter of 1978 compared to the same quarters of the previous year. Sales and production are equivalent, since all clothing is produced to order on a contract base.

CONCLUSION

After careful review I determine that all workers of Lexcraft, Inc., Fall River, Mass., 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 4th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Adminstration and Planning.

[FR Doc. 78-28890 Filed 10-11-78; 8:45 am]

[4510-28-M]

[TA-W-3842]

PACIFIC MOTOR TRUCKING CO., SOUTH GATE YARD, LOS ANGELES, CALIF.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3842: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on June 14, 1978, in response to a worker petition received on June 12, 1978, which was filed on behalf of workers and former workers transporting new vehicles for General Motors at the South Gate Yard, Los Angeles, Calif., facility of Pacific Motor Trucking Co.

The notice of investigation was published in the FEDERAL REGISTER on June 27, 1978 (43 FR 27924). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Pacific Motor Trucking Co. 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."

The Department's investigation revealed that Pacific Motor Trucking Co. was founded in 1933 and incorporated in California. the firm is a subsidiary of Southern Pacific Transportation Co., a rail common carrier which also owns two other subsidiaries engaged in providing transportation services.

Pacific Motor Trucking (PMT) operates as a highway common carrier of general commodities in and between the States of Oregon, California, Nevada, Arizona, New Mexico, and Texas. Additionally, PMT is a contract carrier for General Motors Corp. at its assembly plants at South Gate, Van Nuys (Raymer), and Fremont, Calif. Auto transport operations of Pacific Motor trucking Co. are performed in its own name under interstate and intrastate operating authorities issued to PMT by the Interstate Commerce Commission and the California State Public Utilities Commission.

The petitioning workers are employed at the South Gate Yard, Los Angeles, Calif., facility of PMT. At this location, PMT loads new automobiles from the GM assembly plant onto rail cars for delivery to various destinations and also transports automobiles over the road for delivery to consignees. PMT assumes responsibility for the autos at the receiving gate of the assembly plant. Facilities are leased from GMC. Most of the equipment used is owned by PMT.

Workers at the South Gate Yard are engaged in providing transport services and do not produce an article within the meaning of section 222(3) of the trade Act.

Pacific Motor Trucking Co. and its customers have no controlling interest in each other.

All workers engaged in providing transport services at the South gate Yard are employed by Pacific Motor Trucking Co. All personnel actions and payroll transactions are controlled by PMT. All employee benefits are provided and maintained by PMT. Workers are not at any time under supervision or employment by customers of Pacific Motor Trucking Co. Thus, Pacific Motor Trucking Co. must be considered to be "the workers' firm."

CONCLUSION

After careful review, I determine that all workers in the South Gate Yard, Los Angeles, Calif., facility of Pacific Motor Trucking Co. be denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 4th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28891 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3644]

RCR SPORTSWEAR, INC., PASSAIC, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3644: 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 RCR Sportswear, Inc., Passaic, 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 RCR Sportswear, Inc., its customers (manufacturers), the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. The 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 590,000 dozen in the first quarter of 1977 to 572,000 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.

U.S. imports of women's, misses' and childrens' raincoats decreased from 261,000 dozen in 1976 to 242,000 dozen in 1977. Imports increased from 84,000 dozen in the first quarter of 1977 to 129,000 dozen in the first quarter of 1978. The ratio of imports to domestic production decreased from 45.0 percent in 1976 to 40.3 percent in 1977.

The Department conducted a survey of the principal manufacturers for which RCR Sportswear worked in 1976 and 1977. A manufacturer that accounted for a majority of sales in 1976 reduced purchased from RCR Sportswear and increased purchases of imported women's coats and raincoats in 1977 compared to 1976. This manufacturer ceased purchases from RCR Sportswear in the first 5 months of 1978, while continuing to increase imports during this period.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the women's coats and raincoats produced at RCR Sportswear, Inc., Passaic, 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 RCR Sportsswear, Inc., Passaic, N.J., 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 3d day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28892 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3651]

REMM FASHIONS, INC., JERSEY CITY, N.J.

Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an 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' and children's coats at Remm Fashions, Inc., 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.

Due to the short term of operation of Remm Fashions and to the seasonality of the ladies' coat industry, there is not sufficient information in this case upon which to base a determination. In addition, worker qualifying requirements in section 231 of the Act may not be met at this time. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 3d day of October 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-28893 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3739]

RO TARR FASHIONS, INC., NEWBURGH, N.Y.

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-3739: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 18, 1978, in response to a worker petition received on April 28, 1978, which was filed by the International Ladies' Garment Workers Union on behalf of workers producing wool coats and raincoats for women at Ro Tarr Fashions, Inc., Newburgh, N.Y.

The notice of investigation was published in the FEDERAL REGISTER on June 13, 1978 (43 FR 25498-25499). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Ro Tarr, its customers, the U.S. International Trade Commission, the U.S. Department of Commerce, 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. 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 separations, or threat thereof, and to the absolute decline in sales or production.

Ro Tarr produces under contract exclusively for one manufacturer who does not contract with foreign sources. That manufacturer decreased purchases slightly from Ro Tarr in 1977 while increasing purchases from other domestic contractors. Orders from the manufacturer to Ro Tarr increased in the first 6 months of 1978 compared to the first 6 months of 1977.

CONCLUSION

After careful review, I determine that workers of Ro Tarr Fashions, Inc., Newburgh, 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 4th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28894 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3457]

SHURON DIVISION OF TEXTRON, INC., TAMPA, FLA.

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-3457: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 30, 1978, in response to a worker petition received on March 21, 1978, which was filed by the United Steelworkers of America on behalf of workers and former workers producing ophthalmic lenses at the Tampa, Fla., plant of the Shuron Division of Textron, Inc.

The notice of investigation was published in the FEDERAL REGISTER on April 25, 1978 (43 FR 17551). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Shuron Division of Textron, 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. 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 ophthalmic lenses decreased from 3,435 thousand pair in the first quarter of 1977 to 2,884 thousand pair in the first quarter of 1978.

Customers of Shuron who were surveyed did not reduce purchases from Shuron in favor of imports. The termination of lens operations at the Tampa plant resulted largely from a decision by Shuron officials to consolidate all glass lens production at the firm's Barnwell, S.C., facility.

CONCLUSION

After careful review, I determine that workers engaged in employment related to the production of ophthalmic lenses of the Tampa, Fla., plant of the Shuron Division of Textron, Inc. 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 3d day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration & Planning.

[FR Doc. 78-28895 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3456]

STYLISH SPORTWEAR, CO., INC., NEW YORK, N.Y.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3456: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 30, 1978, in response to a worker petition received on March 21, 1978, which was filed on behalf of workers and former workers producing ladies' sportswear at Stylish Sportswear Co., Inc., New York, N.Y.

The notice of investigation was published in the FEDERAL REGISTER on April 25, 1978 (43 FR 17551). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Stylish Sportswear Co., Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and the 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 from 10,067 thousand dozen in 1975 to 11,040 thousand dozen in 1976 to 11,622 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 U.S. imports to domestic production increased from 35.2 percent in 1975 to 36.8 percent in 1976 to 38.0 percent in 1977.

A survey of major customers of Stylish Sportswear indicated that those customers who decreased purchases from Stylish from 1976 to 1977, increased purchases of imported slacks.

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 ladies' slacks produced by Stylish Sportswear Co., Inc., New York, N.Y., contributed importantly to the decline in sales and production and to the total or partial separations of workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at Stylish Sportswear Co., Inc., New York, 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 4th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28896 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3667]

TIARA COAT FASHIONS, INC., WEST NEW YORK, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3667: 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 Tiara Coat Fashions, Inc., West New York, 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 Tiara Coat Fashions, Inc., its customers (manufacturers), the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. The Department's investigation revealed that all of the requirements have been met.

U.S. Imports of women's, misses', and children's coats and jackets increased from 2,252 thousand dozen in 1976 to 2,723 thousand dozen in 1977. Imports declined from 590,000 dozen in the first quarter of 1977 to 572,000 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.

U.S. imports of women's, misses', and children's raincoats decreased from 261,000 dozen in 1976 to 242,000 dozen in 1977. Imports increased from 84,000 dozen in the first quarter of 1977 to 129,000 dozen in the first quarter of 1978. The ratio of imports to domestic production decreased from 45.0 percent in 1976 to 40.3 percent in 1977.

The Department conducted a survey of the principal manufactureres for which Tiara Coat Fashions, Inc. worked in 1976 and 1977. Manufacturers that accounted for a majority of sales in 1976 reduced purchases from Tiara Coat Fashions, Inc. and increased purchases of imported coats in 1977 compared to 1976. Manufacturers that accounted for a majority of sales in 1977 reduced purchases from Tiara Coat 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 and raincoats produced at Tiara Coat Fashions, Inc., West New York, 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 Tiara Coat Fashions, Inc., West New York, N.J., who became totally or partially separated from employment on or after November 20, 1977, eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 4th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28897 Filed 10-12-78; 8:45 am]

[4510-28-M]

[TA-W-3654]

VENUS COAT CO. JERSEY CITY, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3654: 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 Venus 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 Venus Coat Co., its manufacturers,the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certificate 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 590,000 dozen in the first quarter of 1977 to 572,000 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 Venus Coat Co. worked in 1976 and 1977. One manufacturer that accounted for a majority of sales in 1976 reduced purchases from Venus Coat Co. 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 Venus Coat Co. 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 Venus Coat Co., Jersey City, N.J. contributed importantly to the decline in sales and production 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 Venus Coat Co., Jersey City, 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 4th day of October 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-28898 Filed 10-12-78; 8:45 am]

[7510-01-M]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 78-42]

INTENT TO GRANT EXCLUSIVE PATENT LICENSE

Notice is hereby given of intent to grant to Transolar, Inc., Chattanooga, Tenn., a revocable, limited exclusive license to practice the inventions described in U.S. Patent No. 3,977,197 for "Thermal Energy Storage System," issued on August 31, 1976, and U.S. Patent No. 3,951,129 for "Solar Energy Absorber," issued on April 20, 1976, to the Administrator of the National Aeronautics and Space Administration on behalf of the United States of America. Copies of the above patents may be purchased from the Commissioner of Patents, U.S. Patent and Trademark Office, Washington, D.C. 20231. The proposed exclusive license will be for a limited number of years and will contain appropriate terms and conditions to be negotiated in accordance with the NASA Patent Licensing Regulations, 14 CFR 1245.2, as revised April 1, 1972.

NASA will grant the exclusive license unless, within 60 days of this notice, the Chairperson, Inventions and Contributions Board, NASA, Washington, D.C. 20546, receives in writing any of the following, together with supporting documentation: (i) A statement from any person setting forth reasons why it would not be in the best interest of the United States to grant the proposed exclusive license; or (ii) an application for a nonexclusive license under such inventions, in accordance with § 1245.206(b) in which applicant states that he has already brought or is likely to bring the invention or inventions to practical application within a reasonable period.

The Board will review all written responses to the Notice and then recommend to the Administrator whether to grant the exclusive license.

Dated: October 3, 1978.

S. NEIL HOSENBALL,
General Counsel.

[FR Doc. 78-28873 Filed 10-12-78; 8:45 am]

[7510-01-M]

[Notice 78-43]

NASA ADVISORY COUNCIL (NAC) AERONAUTICS ADVISORY COMMITTEE

Meeting

A meeting of the Informal Executive Committee of the NAC Aeronautics Advisory Committee will be held October 18, 1978, from 9 a.m. to 1 p.m., in room 647, NASA Headquarters, 600 Independence Avenue SW., Washington, D.C. 20546. The meeting will be open to the public up to the seating capacity of the room (about 15 persons including committee members and participants).

The Aeronautics Advisory Committee was established to advise NASA senior management through the NASA Advisory Council in the area of aeronautical research and technology. The Executive Committee's purpose is to meet and discuss the operation of the Aeronautics Advisory Committee and subjects that should be studied through the formation of informal ad hoc subcommittees. It is necessary that this Informal Executive Committee meet at this time in order that the informal ad hoc subcommittees established by the Committee will have time to meet and discuss subjects pertinent to NASA's planning and budget cycle and present their findings to the NAC Aeronautics Advisory Committee in February 1979. The Chairman is Dr. Robert C. Loewy. There are seven members on the Informal Executive Committee.

For further information, contact Mr. C. Robert Nysmith, Executive Secretary, 202-755-8550, NASA Headquarters, Code R, Washington, D.C. 20546.

ARNOLD W. FRUTKIN,
Acting Associate Administrator for External Relations.

OCTOBER 6, 1978.

[FR Doc. 78-28874 Filed 10-12-78; 8:45 am]

[7510-01-M]

[Notice 78-4]

NASA WAGE COMMITTEE

Reestablishment

Pursuant to section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), and after consultation with the General Services Administration, NASA has determined that the reestablishment of the NASA Wage Committee is in the public interest in connection with the performance of duties imposed upon NASA by law. The function of this Committee is to provide recommendations to NASA relating to a survey of wages and the establishment of wage schedules for trades and labor employees in the Cleveland, Ohio wage area. NASA has been designated as the "lead agency" for that area under Federal Personnel Manual Supplement 532-1.

ARNOLD W. FRUTKIN,
Acting Associate Administrator for External Relations.

OCTOBER 6, 1978.

[FR Doc. 78-28875 Filed 10-12-78; 8:45 am]

[7527-01-M]

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

PRIVACY ACT OF 1974

Notice of New System; Adoption

The National Commission on Libraries and Information Science (NCLIS) is creating a new record system subject to section 3 of the Privacy Act of 1974, 5 U.S.C. 522a.

This new system is identified as the White House Conference Delgate/Alternate Certification File, and will include information provided by persons named as official delegates or alternates from their respective States or territories to the White House Conference on Library and Information Services (WHCLIS). The information is necessary to insure the wide representation required by the WHCLIS legislation, Pub. L. 93-568.

On August 11, 1978 (45 FR 35805) the Commission published notice of the proposed new system. No comments were received. The system is adopted as published in that notice.

OCTOBER 10, 1978.

ALPHONSE F. TREZZA,
Executive Director.

[FR Doc. 78-28851 Filed 10-12-78; 8:45 am]

[4510-27-M]

NATIONAL COMMISSION ON UNEMPLOYMENT COMPENSATION

Meeting

The eighth meeting of the NCUC will be held in the Austin Marriott Hotel, Austin, Tex. in the Sundance Room on October 19, 20, and 21. The meeting will begin at 9 a.m. on October 19 and will conclude at 12:15 p.m. on October 21.

TENTATIVE AGENDA—OCTOBER MEETING

Marriott Hotel, Austin, Tex., Sundance Room.

OCTOBER 19

9 a.m. to 12:30 p.m.— Public Hearings—The Emphasis will be on agricultural coverage.
2 to 3 p.m.—Presentation by Texas Employment commission.
3 to 5:30 p.m.—Commission discussion of First Interim Report.

Adjourn—5:30 p.m.

OCTOBER 20

9 a.m. to 12:30 p.m.—Commission discussion of First Interim Report.
2 to 5:30 p.m.—Commission discussion of First Interim Report.

Adjourn 5:30 p.m.

OCTOBER 21

9 a.m. to 12 p.m.—Commission discussion of First Interim Report.
12 noon to 12:30 p.m.—Commission business meeting.

Adjourn 12:30 p.m.

Telephone inquiries and communications concerning this meeting should be directed to: James M. Rosbrow, Executive Director, National Commission on Unemployment compensation, Room 440, 1815 Lynn Street, Rosslyn, Va. 22209, phone 703-235-2782.

Signed at Washington, D.C., this 5th day of October, 1978.

JAMES M. ROSBROW,
Executive Director National Commission on Unemployment Compensation.

[FR Doc. 78-28882 Filed 10-12-78; 8:45 am]

[7555-01-M]

NATIONAL SCIENCE FOUNDATION

ADVISORY COMMITTEE FOR CHEMISTRY

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Chemistry.
Date and time: October 30-31, 1978—9 a.m. to 5 p.m., each day.
Place: Room 338, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.
Type of meeting: Open.
Contact person: Dr. Richard S. Nicholson, Division of Chemistry, Room 340, National Science Foundation, Washington, D.C. 20550, telephone 202-632-4262.
Summary minutes: May be obtained from the Committee Management Coordinator, Division of Financial and Administrative Management, Room 248, National Science Foundation, Washington, D.C. 20550.
Purpose of Committee: To provide program oversight concerning NSF support for research in chemistry.
Agenda: The meeting will involve briefing of the Committee by NSF staff on items of

topical interest to the Committee. In addition, the Division will seek the Committee's advice concerning the support of post-doctorals in chemistry. There also will be a discussion of the future plan for the regional instrumentation facilities program.

M. REBECCA WINKLER,
Committee Management Coordinator.

OCTOBER 10, 1978.

[FR Doc. 78-28907 Filed 10-12-78; 8:45 am]

[7555-01-M]

SUBCOMMITTEE ON CELL BIOLOGY

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Cell Biology of the Advisory Committee for Physiology, Cellular, and Molecular Biology.
Date and time: October 30, 31, and November 1, 1978: 9 a.m. to 6 p.m.
Place: Room 543, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.
Type of meeting: Closed.
Contact person: Dr. Liselotte Mezger-Freed, Program Director for Cell Biology, Room 331-B, National Science Foundation, Washington, D.C. 20550, telephone 202-634-4117.
Purpose of subcommittee: To provide advice and recommendations concerning support for research in cell biology.
Agenda: To review and evaluate research proposals as part of the selection process for awards.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Committee Management Coordinator.

[FR Doc. 78-28908 Filed 10-12-78; 8:45 am]

[7555-01-M]

SUBCOMMITTEE ON ECONOMICS OF THE ADVISORY COMMITTEE FOR SOCIAL SCIENCES

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Subcommittee on Economics of the Advisory Committee for Social Sciences.
Date and time: November 3 and 4, 1978—November 3—9 a.m. to 5 p.m., November 4—8 a.m. to 4 p.m.
Place: Room 628, Nation Science Foundation, 1800 G Street NW., Washington, D.C. 20550.
Type of meeting: Part open—November 3—9 a.m. to 5 p.m.—Closed. November 4—8 to 10 a.m.—Closed. November 4—10 a.m. to 12 p.m.—Open. November 4—12:30 to 4 p.m.—Closed.
Contact person: Dr. James H. Blackman, Program Director, Economics Program, National Science Foundation, Washington, D.C. 50550, telephone 202-632-5968.
Summary minutes: May be obtained from the Committee Management Coordinator, Division of Financial and Administrative Management, Room 248, National Science Foundation, Washington, D.C. 20550.
Purpose of subcommittee: To provide advice and recommendations concerning research support in Economics.
Agenda: November 4—10 a.m. to 12 p.m.—Open session. General discussion of computer technology and other equipment advances relevant to economics of standards for assessing need for equipment, and of research topics which deserve special emphasis. November 3—9 a.m. to 5 p.m. and November 4, 8 a.m. to 10 a.m. and November 4—12:30 to 4 p.m.—Closed sessions. To review and evaluate research proposals as part of the selection process for awards.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. Theses matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Committee Management Coordinator.

OCTOBER 10, 1978.

[FR Doc. 78-28912 Filed 10-12-78; 8:45 am]

[7555-01-M]

SUBCOMMITTEE FOR GEOGRAPHY AND REGIONAL SCIENCE

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subcommittee for Geography and Regional Science.
Date and time: October 30, 1978—8:30 a.m. to 5 p.m.
Place: Room 321, National Science Foundation, 1800 G Street NW., Washington, D.C.
Type of meeting: Open: 8:30—9 a.m. Closed: 9 a.m.—5 p.m.
Contact person: Patricia J. McWethy, Associated Program Director, Room 316, National Science Foundation, Washington, D.C. 20550, telephone 202-634-6683.
Purpose of subcommittee: To provide advice and recommendation concerning support for research in Geography and Regional Science.
Agenda: Open: To review status of Geogrpahy and Regional Science Program and discuss equipment grant program. Closed: To review and evaluate research proposals and projects as part of the selection process for awards.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make determinations by the Acting Director, NSF, on February 18, 1977.
Summary minutes: May be obtained from the Committee Management Coordinator, Division of Financial and Administrative Management, Room 248, National Science Foundation, Washington, D.C. 20550.

M. REBECCA WINKLER,
Committe Management Coordinator.

OCTOBER 10, 1978.

[FR Doc. 78-28906 Filed 10-12-78; 8:45 am]

[7555-01-M]

SUBCOMMITTEE ON HISTORY AND PHILOSOPHY OF SCIENCE OF THE ADVISORY COMMITTEE FOR SOCIAL SCIENCES

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Subcommittee on History and Philosophy of Science of the Advisory Committee for Social Sciences.
Date and time: October 30, 1978—9 a.m. to 5 p.m.
Place: National Science Foundation, Room 628.
Type of meeting: Closed.
Contact person: Dr. Ronald J. Overmann, Associate Program Director for History and Philosophy of Science, Room 312, National Science Foundation, Washington, D.C. 20550, telephone 202-632-4182.
Purpose of subcommittee: To provide advice and recommendations concerning support for research in history and philosophy of science.

Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Office pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Committee Management Coordinator.

OCTOBER 10, 1978.

[FR Doc. 78-28905 Filed 10-12-78; 8:45 am]

[7555-01-M]

SUBCOMMITTEE ON THE MATERIALS RESEARCH LABORATORIES OF THE ADVISORY COMMITTEE FOR MATERIALS RESEARCH

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subcommittee on the Materials Research Laboratories of the Advisory Committee for Materials Research.

Date and time: November 2 and 3, 1978—9 a.m. to 5 p.m. each day.

Place: Room 540, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

Type of meeting: November 2, closed; November 3, open.

Contact person: Dr. R. J. Wasilewski, Head, Materials Research Laboratory Section, Room 408, National Science Foundation, Washington, D.C. 20550, telephone 202-632-7408.

Purpose of subcommittee: To provide advice and recommendations concerning core support of research at the Materials Research Laboratories.

Agenda: November 2—9 a.m. to 5 p.m.—Review and evaluation of research proposals and programs as part of the selection process for awards. November 3—9 a.m. to noon—Review of the report on the Evaluation Study of the Materials Research Laboratory Program; 1:30 to 5 p.m.—Future outlook and directions.

Reason for closing: The first day's meeting is closed since the proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within the exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Committee Management Coordinator.

OCTOBER 10, 1978.

[FR Doc. 78-28911 Filed 10-12-78; 8:45 am]

[7555-01-M]

SUBCOMMITTEE ON SOCIAL AND DEVELOPMENTAL PSYCHOLOGY

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Social and Developmental Psychology of the Advisory Committee for Behavioral and Neural Sciences.

Date and time: November 2 and 3, 1978; 9 a.m. to 5 p.m. each day.

Place: Room 643, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

Type of Meeting: Closed.

Contact person: Dr. Kelly G. Shaver, Program Director, Social and Developmental Psychology, Room 317, National Science Foundation, Washington, D.C. 20550, telephone 202-632-5714.

Purpose of subcommittee: To provide advice and recommendations concerning support for research in Social and Developmental Psychology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Committee Management Coordinator.

OCTOBER 10, 1978.

[FR Doc. 78-28910 Filed 10-12-78; 8:45 am]

[7555-01-M]

SUBCOMMITTEE TO REVIEW THE STRUCTURAL MATERIALS AND GEOTECHNICAL ENGINEERING AND WATER RESOURCES, URBAN AND ENVIRONMENTAL ENGINEERING PROGRAMS OF THE ADVISORY COMMITTEE FOR ENGINEERING

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Subcommittee to Review the Structural Materials and Geotechnical Engineering and Water Resources, Urban and Environmental Engineering Programs of the Advisory Committee for Engineering.

Date and time: November 2 and 3, 1978—9 a.m. to 5 p.m. each day.

Place: Room 421, National Science Foundation, 1800 G Street NW., Washington, D.C.

Type of meeting: Part-Open—November 2, 1978—9 a.m. to noon—Open 1:30 to 5 p.m.—closed. November 3, 1978—9 a.m. to 1 p.m.—Open 2 to 5 p.m.—closed.

Contact person: Dr. Ronald L. Huston, Section Head, Engineering Mechanics, Room 419, National Science Foundation, Washington, D.C. 20550, telephone 202-632-5787.

Summary minutes: May be obtained from the Committee Management Coordinator, Division of Financial and Administrative Management, Room 248, National Science Foundation, Washington, D.C. 20550.

Purpose of subcommittee: To provide advice and counsel concerning the status and new directions of Engineering Mechanics research in Structural, Materials and Geotechnical Engineering and Water Resources, Urban and Environmental Engineering.

Agenda:

THURSDAY, NOVEMBER 2—OPEN 9 A.M. TO NOON.

9—Introduction by Section Head. Engineering Division Status Report.
9:45—Question and Answer.
10:15—Briefing of Engineering Mechanics Program. Section Overview. Structural, Materials and Geotechnical Engineering. Water Resources, Urban and Environmental Engineering.
11—Briefing by Division of Program—Focused Research. Applications of the Directorate for Applied Science and Research Applications.
11:30—Question and Answer.
12—Recess.

THURSDAY, NOVEMBER 2—CLOSED—1:30 TO 5 P.M.

1:30—Review of declinations containing names of applicant institutions and principal investigators and of the peer review documentation pertaining to awards.

FRIDAY, NOVEMBER 3—OPEN 9 A.M. TO 1 P.M.

9—Oral reports from Subcommittee.
9:30—Subcommittee Discussion of future directions of programs.
10:30—Subcommittee discussion of Section-wide and Division-wide concerns.

11:30—Drafting of preliminary subcommittee response.

FRIDAY, NOVEMBER 3—CLOSED—2 TO 5 P.M.

2—Further review of peer review process on individual grants and declinations.
5—Adjourn.

Reason for closing: The Subcommittee will be reviewing grants and declinations jackets which contain the names of applicant institutions and principal investigators and privileged information contained in declined proposals. This session will also include a review of the peer review documentation pertaining to applicants. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Director, NSF, pursuant to provisions of section 10(d) of Pub. L. 92-463.

M. REBECCA WINKLER,
Committe Management Coordinator.

OCTOBER 10, 1978.

[FR Doc. 78-28909 Filed 10-12-78; 8:45 am]

[7590-01-M]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON THE SURRY POWERPLANT, UNITS 1 AND 2

Meeting

The ACRS Subcommittee on the Surry Powerplant, units 1 and 2, will hold a meeting on October 28, 1978, in Room 1046, 1717 H Street NW., Washington, D.C. 20555 to discuss the steam generator repair program for units 1 and 2.

In accordance with the procedures outlined in the FEDERAL REGISTER on October 4, 1978, (43 FR 45926), oral or written statements may be presented by members of the public, recordings will be permitted only during these 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:

Saturday, October 28, 1978.
8:30 a.m. until the conclusion of business.

The subcommittee may meet in executive session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to formulate a report and recommendations to the full committee.

At the conclusion of the executive session, the subcommittee will hear presentations by and hold discussions with representatives of the NRC staff, the Virginia Electric Power Co., and their consultants, pertinent to this review. The subcommittee may then caucus to determine whether the matters identified in the initial session have been adequately covered and whether the project is ready for review by the full committee.

In addition, it may be necessary for the subcommittee to hold one or more closed sessions for the purpose of exploring matters involving proprietary information. I have determined, in accordance with subsection 10(d) of Pub. L. 92-463, that, should such sessions be required, it is necessary to close these sessions to protect proprietary information (5 U.S.C. 552b(c)(4)).

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. Gary R. Quittschreiber, telephone 202-634-3267 between 8:15 a.m. and 5 p.m., EDT.

Background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the NRC Public Document Room, 1717 H Street NW., Washington, D.C. 20555 and at the Swem Library, College of William and Mary, Williamsburg, Va. 23185.

Dated: October 10, 1978.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc. 78-29068 filed 10-12-78; 8:45 am]

[3110-01-M]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on October 4, 1978 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; an indication of who will be the respondents to the proposed collection; the estimated number of responses; the estimated burden in reporting hours; and the name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

NEW FORMS

DEPARTMENT OF AGRICULTURE

Farm and Rural Development Administration, Tenant Certification, FMHA 444-8, Annually, FMHA multiple family housing borrowers, 60,000 responses, 15,000 hours, Ellett, C. A., 395-6132.

DEPARTMENT OF COMMERCE

Bureau of the Census, Survey of Assessed Values, GP-33, single time, State officials in charge of assessed values, 51 responses, 153 hours, Office of Federal Statistical Policy and Standards, C. Louis Kincannon, 673-7977.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration, Product License Application for the Manufacturers of Antihuman Globulin, FD-3096, on occasion, manufacturers of antihuman globulin sera, 40 responses, 30 hours, Richard Eisinger, 395-3214.

Alcohol, Drug Abuse, and Mental Health Administration:

Study of the Contexts of Drinking, single time, Households in Suburban Community, 1,224 responses, 1,469 hours, Office of Federal Statistical Policy and Standards, Richard Eisinger, 673-7977.

Use of Annual Evaluation Report Review, single time, staff of federally funded CMHC's with evaluation reports reviewed, 48 responses, 24 hours, Richard Eisinger, 395-3214.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Community Planning and Development, Application for Urban Homesteading Program, on occasion, States or units of general local government, 300 responses, 18,600 hours, Caywood, David P., 395-3443.

REVISIONS

DEPARTMENT OF LABOR

Employment and Training Administration, Job Corps Placement and Assistant Record, ETA-678, on occasion, Sesa's, job corps centers and other placement agencies, 50,000 responses, 50,000 hours, Arnold Strasser, 395-6132.

EXTENSIONS

AGENCY FOR INTERNATIONAL DEVELOPMENT

Monthly Report of Participants Under Grant, Loan, or Contract Programs, AID 1380-9, monthly, universities and profes-

sional assistances, 384 responses, 384 hours, Marsha Traynham, 395-3773.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Production and Mortgage Credit, Permission to Occupy—Project Mortgages, FHA-2485, on occasion, project mortgages, 150 responses, 75 hours, Caywood, David P., 395-3443.

Housing Management:

Recertification of Family Income and Composition, Section 235(b), HUD-93101, 93101A, and 93101B, annually, homeowners receiving assistance and mortgage lenders, 500,000 responses, 500,000 hours, Caywood, David P., 395-3443.

Recertification for Benefits Under Section 404(b), Disaster Relief Act of 1974, HUD-9954, on occasion, victims of Presidentially declared disasters, 20 responses, 10 hours, Caywood, David P., 395-3443.

Mortgage/Landlord Statement, HUD-9952, on occasion, mortgage lenders/landlords, 25 responses, 13 hours, Caywood, David P., 395-3443.

Application for Temporary Housing Assistance, HUD-9960, on occasion, victims of Presidentially declared disasters, 3,000 responses, 1,500 hours, Caywood, David P., 395-3443.

Housing Production and Mortgage Credit, Application for Designation as Fee Personnel, FHA-2563, on occasion, Inspection, Appraisal, MC examination, seeking to be members of fee panels, 1,000 responses, 500 hours, Caywood, David P., 395-3443.

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 78-28848 Filed 10-12-78; 8:45 am]

[3110-01]

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public recieved by the Office of Management and Budget on October 5, 1978 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; an indication of who will be the respondents to the proposed collection; the estimated number of responses; the estimated burden in reporting hours; and the name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice thru this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

NEW FORMS

DEPARTMENT OF COMMERCE

Bureau of the Census:

Post Enumeration Area Sample—1978 Census of Agriculture, 78-A3, single-time, Heads of households and selected household members, 15,000 responses, 2,505 hours, office of Federal Statistical Policy and Standard, Kincannon, C. Louis, 673-7977.

Quality Control/Listing and Matching Record—1980, Decennial Census, D-169, single-time, Sample of households in prelist and conventional areas, 1,800,000 responses, 59,400 hours, Office of Federal Statistical Policy and Standards, Reese, Barbara, 673-7977.

DEPARTMENT OF DEFENSE

Departmental and other, 1978 Post-election voting survey—form B, single-time, Residing overseas, 7,500 responses, 1,875 hours, Office of Federal Statistical Policy and Standards, Marsha Traynham, 673-7977.

VETERANS ADMINISTRATION

Nationwide Survey of Veterans, single-time, Noninstitutionalized male veterans, 11,000 responses, 8,250 hours, Caywood, David P., 395-3443.

REVISIONS

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service, Uniform Grain Storage Agreement, CCC-25, and 25-2, on occasion, Warehousemen, 5,000 responses, 5,000 hours, Ellett, C.A., 395-6132.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service, Food Stamp Program Regulations, part 278, participation of retail food stores, wholesale food concerns and banks, FNS-252, 252-2, 350, on occasion, Retail food stores and wholesalers, 325,000 responses, 27,207 hours, Ellett, C.A., 395-6132.

U.S. CIVIL SERVICE COMMISSION

Medical Report (Epilepsy), SF-217, on occasion, Medical doctors, 1,500 responses, 750 hours, Topelius, Warren, 395-6134.

DEPARTMENT OF DEFENSE

Departmental and other, cost performance report, monthly, Defense contractors, 1,800 responses, 28,800 hours, Office of Federal Statistical Policy and Standards, Marsha Traynham, 673-7977.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Center for Education Statistics, Survey of Library Networks and Cooperative Library Organizations, NCES 2396-2, single-time, Library networks, 10,368 responses, 5,025 hours, Office of Federal Statistical Policy and Standard, Laverne V. Collins, 673-7956.

EXTENSIONS

DEPARTMENT OF AGRICULTURE

Economics, Statistics, and Cooperatives Service, prices paid by farmers for petroleum products and for motor supplies, monthly, stores and service stations that sell the products, 16,000 responses, 3,200 hours, Ellett, C. A., 395-6132.

DEPARTMENT OF COMMERCE

Bureau of Census, construction machinery shipments, MA-35D, annually, construction machinery manufacturing establishments, 65 responses, 48 hours, Office of Federal Statistical Policy and Standard, 673-7056, C. Louis Kincannon.

Domestic and International Business Administration, approval of triangular transactions involving commodities covered by a U.S. import certificate, EAR 368.2(a)(8) and (9), on occasion, commercial exporters, 100 responses, 50 hours, Kincannon, C. Louis, 395-3211.

Domestic and International Business Administration, destination control provisions, EAR 386.6 of Export Administration regulations, on occasion, commercial exporters, 480,000 responses, 11,200 hours, Kincannon, C. Louis, 395-3211.

U.S. CIVIL SERVICE COMMISSION

Medical report (diabetesmillitus), CSC 3684, on occasion, medical doctor for applicant, 2,300 responses, 575 hours, Topelius, Warren, 395-6134.

Certificate of medical examination, SF-78, on occasion, medical doctor for applicant, 492,300 responses, 246,150 hours, Topelius, Warren, 395-6134.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Consumer Affairs regulatory functions, certificate page for settlement statement, HUD-9596, on occasion, closing agents hired by HUD, 75,000 responses, 18,750 hours, Caywood, David P., 395-3443.

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration, exemplary project recommendation, LEAA 2300/6, annually, any criminal justice program, 100 responses, 800 hours, Collins, Laverne V., 395-3214.

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 78-29036 Filed 10-12-78; 8:45 am]

[8010-01-M]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-15223; File No. SR-MSE-78-19]

MIDWEST STOCK EXCHANGE, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. 94-29, 16 (June 4, 1975), notice is hereby given that on September 11, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission proposed rule changes. The Midwest Stock Exchange, Inc. has provided the Commission with the following state-

ment of the terms of substance, basis, and purpose of the proposed rule change.

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGES

The proposed rule changes, if approved, would provide for the implementation and operation of the intermarket trading system (ITS) and the pre-opening application on the floor of the exchange.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the proposed rule changes are as follows:

PURPOSE OF PROPOSED RULE CHANGES

The purpose of the proposed rule change is to permit the Midwest Stock Exchange to participate in the Plan previously submitted to the Securities and Exchange Commission by the New York Stock Exchange by letter dated March 8, 1978, proposing the creation and operation of an intermarket communications linkage pursuant to section 11A(a)(3)(B) of the Securities Exchange Act of 1934. This plan in general provides for a communications system linkage of the various participants' trading floors in order to permit a trade to take place between the members of different participants.

Pursuant to the intent of the Congress, as expressed in section 11A(a)(3)(B) of the Securities Exchange Act of 1934, as amended (the Act)—that self-regulatory organizations act jointly in planning, developing, operating, and regulating a national market system (or a subsystem or one or more facilities thereof)—the MSE and the American, Boston, Pacific, New York, and Philadelphia Stock Exchanges have entered into a plan agreement (the Plan) providing for an electronic communications system (the System) which will link together the various trading floors maintained by the participating exchanges. This System is intended to support the intermarket trading system application (ITS) and the pre-opening application.

The ITS application of the System will facilitate intraday (post opening) trades between broker-dealers on different participants. The following example describes the operation of ITS:

Assume that a member firm of the NYSE receives from a customer an order to purchase 100 shares of a given NYSE listed stock that is also traded on the Midwest (MSE) and Philadelphia (PHLX) Stock Exchanges and sends that order to the NYSE floor for execution. There a NYSE member, acting as agent for the customer, will receive the order and attempt to execute it. He will go to the post at which the stock is traded on the NYSE and inquire as to the market for that stock. He may find that the best bid on the NYSE floor is 40 and that the best offer is 40¼. A continuously updated quotation display at the same trading post will also show the broker the best bid and offer available throughout the System other than on the NYSE floor, identifying the participant with the best bid and the participant with the best offer. Thus, the broker may discover that the best offer from other participants is one of 40⅛ on the MSE. Having learned this information the broker may decide to attempt to buy the 100 shares for his customer from the 40⅛ offer on the MSE. The broker would send, or cause to be sent, through ITS a so-called "commitment to trade" to the MSE. (As used in the Plan, the term "commitment to trade" means a message issued by a broker-dealer in one participating market center which is sent to another participating market center through ITS and which communicates the sender's firm offer to buy (or sell) a specific number of shares of a specific security at a specified price or "at the market.") In this example, the broket would send to the MSE a commitment to buy 100 shares of the stock at 40⅛. If the 40⅛ offer on the MSE is still available when the commitment to buy reaches the MSE and if the rules of the MSE permit an execution at that price, then the MSE offer would accept the commitment and an execution at 40⅛ would take place.

The preopening application of the System will enable a specialist on any participant who wishes to open his market in a security traded through ITS to obtain through the System any preopening interest of other specialists registered in that security on the other participants. In this way, the specialist in a given stock on one participant may be able to participate (as agent and/or principal) in the opening transaction in that stock on another participant and thus be able to provide an execution for limited price orders left with him which might otherwise go unexecuted. Briefly stated, the preopening application would operate as follows:

Whenever a specialist on any participant, in arranging an opening transaction in his market in a stock traded through ITS, determines that the opening transaction will be at a price which is more than one-fourth of a point away from the previous day's closing price of that stock, as reported on the consolidated tape, the specialist will notify specialists in that stock on the other participants of such situation by sending a message, called a preopening notification, through the System. This message will identify the stock and will state the side of the market in which the order imbalance exists, the amount of the imbalance, and the amount paired off. The specialist who issues a preopening notification is referred to in the Plan as the "inquiring specialist."

If any specialist who receives a preopening notification desires to participate in the inquiring specialist's opening transaction in the stock in question, he would do so be sending through the System to the inquiring specialist a message, known as a "preopening response" containing "obligations to trade," both as a principal for his own account and/or as agent for orders left with him, at each price level at which the stock might open. The specialist who issues a preopening response is referred to in the Plan as the "responding specialist."

Upon receiving such obligations to trade from the responding specialist(s), the inquiring specialist would combine them with the orders he already holds in the stock in question and, on the basis of this aggregated information, decide upon the opening transaction in that stock.

Responses to preopening notifications are voluntary, but, each obligation to trade which is included in any preopening response, or in any modification of a preopening response, will remain binding on the responding specialist, and on any person for whom he is acting, until the inquiring specialist has either opened the stock in question or received a cancellation or modification of such obligation.

ITS and the preopening application, and the various procedures related thereto as agreed upon by the participants, are explained fully in the Plan.

The Plan, which has been submitted separately to the SEC for approval, describes a number of rules and rule changes that each participant agrees to adopt in order to insure that both the preopening application and ITS operate in the manner intended by the Plan participants.

Thus, the general purpose of the proposed rule changes submitted in this filing is to provide for the implementation and operation of ITS and the preopening application on the floor of the MSE in accordance with the provisions and intent of the Plan.

The exchange proposes to adopt new rules 36 and 37 to article XX, in connection with ITS and preopening application and the liability of the exchange relating to operation of ITS. 000

Specific to rule 36 of article XX, the proposed rule change would:

* * * define key terms that are unique to the Plan;

* * * incorporate the salient provisions of the Plan into rule so the exchange membership will be aware of them and so that they can be properly enforced by the exchange; and

* * * identify those rules which would be applicable to commitments to trade received on the floor through ITS and those rules which would be applicable to commitments to trade and also obligations to trade issued from the floor of the exchange through ITS or the preopening application, respectively.

Proposed rule 37, of article XX, provides in effect that if the MSE side of a System transaction is to be settled by an exchange member who becomes insolvent to clearance, the exchange would not be required to assume that side of the transaction for its own account and risk.

The Plan provides that the trading rules of the participating market center in which a commitment to trade is received through ITS shall be applicable to that commitment and any execution thereof within the market of that participant.

Thus, the Plan contemplates that such commitments to trade will be handled in the normal course of business in the receiving market center and will not be subject to any special restrictions except those which are specifically agreed to by the participating market centers in the Plan. To further emphasize this principle the Plan provides that the rules of each participant shall provide that a commitment to trade received in its market during the trading day shall, except as otherwise provided for in the Plan, be treated in the same manner and entitled to the same privileges as would an "immediate or cancel" order that reaches the trading floor of that participant at the same time.

The Plan also provides that each participating market center shall be free to determine the extent to which its trading rules will be made applicable with respect to commitments to trade which are issued from such market center. Specifically, the proposed rule changes would make the following existing rules applicable to commitments to trade issued from the floor of the exchange:

Rules 3 and 5 of article IX, rules 3, 5, 25, and 33 of article XX, rules 17 and 18 of article XXI, rules 9 and 10 of article XXX, and rule 13 of article XXXI. Moreover, the exchange has determined that these rules should also be applicable to obligations to trade issued from the floor of the exchange through the preopening application of the System.

In addition to the foregoing, changes are also proposed to article XX, rules 1 and 8, article XXX, rule 2, Interpretations and Policies .03 and article XXX, rule 4. These changes are intended to clarify the application and meaning of the rules in terms compatible with the ITS System.

Basis Under the Act for Proposed Rule Changes

The proposed rule changes relate to section 11A(a) of the Act because they would provide for the implementation and operation of the intermarket trading system and the preopening application on the equity floor of the MSE. Implementation of the intermarket trading system and the preopening application is consistent with the findings and directives of the Congress, as expressed in section 11A(a) of the Act, that:

> New data processing and communications techniques create the opportunity for more efficient and effective market operations (section 11A(a)(1)(B));
>
> It is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure * * * the practicability of brokers executing investors' orders in the best market * * * (section 11A(a)(1)(C)(iv));
>
> The linking of all markets for qualified securities through communications and data processing facilities will foster efficiency, enhance competition, increase the information available to brokers, dealers, and investors, facilitate the offsetting of investors' orders, and contribute to best execution of such orders (section 11A(a)(1)(D));
>
> The Commission is authorized * * * by rule or order, to authorize to require self-regulatory organizations to act jointly with respect to matters as to which they share authority under (the Act) in planning, developing, operating, or regulating a national market system (or a subsystem thereof) or one or more facilities thereof * * * (section 11A(a)(3)(B)).

The proposed rule changes also relate to section 6(b)(1) of the Act in that they would enable the exchange to carry out the purposes of the Act and to comply, and to enforce compliance by its members and persons associated with its members, with the provisions of the Act, the rules and regulations thereunder, and the rules of the exchange in an environment where exchange members on the floor of the MSE will be able to effect securities transactions with broker-dealers located in different market centers.

Finally, the proposed rule changes relate to, and are consistent with, section 6(b)(5) of the Act in that they are designed to promote just and equitable principles of trade; to remove impediments to, and perfect the mechanism of, a free and open market and a national market system; and, in general, to protect investors and the public interest.

Comments Received From Members, Participants, or Others on Proposed Rule Changes

The exchange has not solicited nor has it received any comments regarding the proposed rule changes.

Burden on Competition

The proposed rule changes will not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

On or before November 20, 1978, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before November 13, 1978.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary

October 6, 1978.

[FR Doc. 78-28349 Filed 10-12-78; 8:45 am]

[8025-01-M]

SMALL BUSINESS ADMINISTRATION

REGION I ADVISORY COUNCIL MEETING

Public Meeting

The Small Business Administration Region I Advisory Council, located in the geographical area of Boston, Mass., will hold a public meeting at 1:30 p.m., on Monday, October 30, 1978, in the Conference Room, 150 Causeway Street, 10th Floor, Boston, Mass., to discuss such matters as may be presented members, staff of the Small Business Administration, or others present.

For further information, write or call Thomas A. McGillicuddy, District Director, U.S. Small Business Administration, 150 Causeway Street, Boston, Mass. 02114, 617-223-4074.

Dated: October 6, 1978.

K DREW,
Deputy Advocate for Advisory Councils.

[FR Doc. 78-28841 Filed 10-12-78; 8:45 am]

[8025-01-M]

REGION I ADVISORY COUNCIL MEETING

Public Meeting

The Small Business Administration Region I Advisory Council, located in the geographical area of Augusta, Maine, will hold a public meeting at 12 noon on Tuesday, October 31, 1978, at Guido's, 333A Water Street, Augusta, Maine, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present.

For further information, write or call G. Leroy Perry, Acting District Director, U.S. Small Business Administration, Federal Building, 40 Western Avenue, Augusta, Maine 04330, 207-622-6171, extension 282.

Dated: October 6, 1978.

K DREW,
Deputy Advocate for Advisory Councils.

[FR Doc. 78-28842 Filed 10-12-78; 8:45 am]

[8025-01-M]

[License No. 05/05-0132]

ARLINGTON VENTURE CAPITAL CORP.

Application for a License as a Small Business Investment Company (SBIC)

Notice is hereby given of the filing of an application with the Small Business Administration pursuant to section 107.102 of the SBA regulations (13 CFR 107.102 (1978)), by Arlington Venture Capital Corp., 2355 South Arlington Heights Road, Arlington, Heights, Ill. 60005, for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958 (the Act), as amended (15 U.S.C. et seq.).

The proposed officers, directors, and stockholders are:

Name and address	Title and relationship	Percent of ownership
Douglas W. Dodds, 660 West Polo Dr., Clayton, Mo. 63105.	President, general manager, and director.	57
Marshall Brodien, 22 West 303 Foster, Medinah, Ill. 60157.	Treasurer, assistant secretary and director.	10
Roger G. Fein, 1661 North Lane, Northbrook, Ill. 60062.	Secretary and director	3
James T. Ryan, 1308 Watling Rd., Arlington Heights, Ill. 60004.	Assistant treasurer, assistant secretary, and director.	10
John G. Sellas, 21 West Ambleside, Des Plaines, Ill. 60016.	Director	10
Carl M. Teutsch, Jr., 1926 Prairie Sq., Schaumburg, Ill. 60195.	do	10

The applicant proposes to begin operations with a capitalization of $500,000 and will be a source of equity capital and long-term loan funds for qualified small business concerns. The applicant intends to render management consulting services to small business concerns.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management, including adequate profitability and financial soundness, in accordance with the Act and regulations.

Notice is further given that any person may, not later than October 30, 1978, submit written comments on the proposed SBIC to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

A copy of the notice will be published in a newspaper of general circulation in Arlington Heights, Ill.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: October 5, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-28839 Filed 10-12-78; 8:45 am]

[8025-01-M]

[Declaration of Disaster Loan Area No. 1532]

TEXAS

Declaration of Disaster Loan Area

Bexar and Shelby Counties and adjacent counties within the State of Texas constitute a disaster area as a result of damage caused by high wind, lightening, excessive rains, rising water and flooding which occurred in San Antonio on September 13, 1978, and in Shelby on September 14, 1978. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on December 4, 1978, and for economic injury until the close of business on July 3, 1979, at:

Small Business Administration, District Office, 727 East Durango—Room A-513, Federal Building, San Antonio, Tex. 78206.

Small Business Administration, District Office, 1100 Commerce Street, Dallas, Tex. 75242.

or other locally announced locations.

(Catalog of Federal domestic assistance program Nos. 59002 and 59008.)

Dated: October 3, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-28840 Filed 10-12-78; 8:45 am]

[4710-01-M]

DEPARTMENT OF STATE

[CM-8/116]

FINE ARTS COMMITTEE

Notice of Meeting

The Fine Arts Committee of the Department of State will hold its fall meeting on Monday, November 13, 1978, at 2:30 p.m. in the John Quincy Adams State Drawing Room. The meeting will last approximately until 4 p.m.

The agenda for the committee meetings will include a summary of the work of the Fine Arts Office since its last meeting in December 1977, the announcement of all gifts and loans since January 1, 1978, as well as a report on the status of the architectural improvements in the Entrance Hall and Lounges of the Diplomatic Reception Rooms. Also on the agenda will be a report from the Finance Committee on the fundraising dinner held in the spring.

The meeting is open to the public. The public may take part in the discussion as long as time permits and at the discretion of the Chairman. Because of State Department security requirements, anyone wishing to attend the meeting should telephone the Fine Arts Office by Monday, November 6, 1978, telephone 202-632-0298 to make arrangements to enter the building.

Dated: October 4, 1978.

CLEMENT E. CONGER,
Chairman, Fine Arts Committee.

[FR Doc. 78-28871 Filed 10-12-78; 8:45 am]

[4810-22-M]

DEPARTMENT OF THE TREASURY

Customs Service

CERTAIN TEXTILES AND TEXTILE PRODUCTS FROM ARGENTINA, BRAZIL, COLOMBIA, INDIA, PHILIPPINES, THE REPUBLIC OF CHINA (TAIWAN), REPUBLIC OF KOREA, URUGUAY, MALAYSIA, MEXICO, PAKISTAN, SINGAPORE, AND THAILAND

Clarification of Notices of Receipt of Countervailing Duty Petition and Initiation of Investigation and of Preliminary Countervailing Duty Determinations

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

ACTION: Clarification of countervailing duty notices.

SUMMARY: This notice is to advise the public of a clarification in the description of the products subject to the countervailing duty investigations of men's and boys' apparel and textile products of cotton, wool, and manmade fibers from Argentina, Brazil, Colombia, India, the Philippines, the Republic of China (Taiwan), the Republic of Korea, Uruguay, Malaysia, Mexico, Pakistan, Singapore, and Thailand.

EFFECTIVE DATE: October 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Holly A. Kuga, Operations Officer, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone 202-566-5492.

SUPPLEMENTARY INFORMATION: On January 30, 1978, notices of receipt of countervailing duty petition and initiation of investigation were published in the FEDERAL REGISTER for men's and boys' apparel and textile mill products of cotton, wool, and manmade fibers from Argentina (43 FR 3963), Brazil (43 FR 3964), Colombia (43 FR 3968), India (43 FR 3970), the Philippines (43 FR 3975), the Republic of China (Taiwan) (43 FR 3966), the Republic of Korea (43 FR 3972), and Uruguay (43 FR 3977). The description of the product coverage of the investigations, identical in all notices, followed the description contained in the petition. "Men's and boys' apparel" was defined by describing the covered items, together with their tariff schedule classifications, in an appendix to the initiation notice. "Textile mill products" were defined as "* * * includ(ing) yarns, fabrics, household textiles, and miscellaneous products of textile mills made of cotton, wool, and manmade fibers, as specified in U.S. bilateral textile agreements;" a footnote set out the relevant category numbers from the Correlation: Textile and Apparel Categories with Tariff Schedules of the United States Annotated.

On June 1, 1978, notices of preliminary countervailing duty determination were published in the FEDERAL REGISTER for Argentina (43 FR 23781), Brazil (43 FR 23783), Colombia (43 FR 23786), India (43 FR 23788), the Philippines (43 FR 23793), the Republic of China (Taiwan) (43 FR 23785), the Republic of Korea (43 FR 23791), and Uruguay (43 FR 23795). In the period between publication of the initiation notices and the preliminary determinations the Treasury Department learned that the Department of Commerce had streamlined and consolidated the textile and apparel categories, thereby affecting the category numbers set forth in the footnote in the initiation notices. The description of product coverage in the preliminary determinations was identical to the description in the initiation notices except that the footnote listed category numbers from the revised textile and apparel categories.

A comparison of the revised category numbers with those listed in the initiation notices has disclosed that certain textile mill products within the scope of these investigations were inadvertently omitted from the revised category numbers listed in the preliminary determinations. This notice is intended to clarify that there has been no change in the scope of product coverage; it remains as set forth in the petition and the initiation notices. It has been determined, though, that it would be clearer if the description of product coverage were described in terms of item numbers from the Tariff Schedules of the United States Annotated rather than category numbers from the textile and apparel categories. Accordingly, footnote 1 and the appendix in each of the above-cited initiation notices and preliminary determinations are replaced by the appendix to this notice, and the textual description of the scope of product coverage is amended to read as follows:

For purposes of this notice "textile mill products" include yarn, fabrics, household textiles, miscellaneous products of textile mills, and certified handloomed and folklore products, made of cotton, wool, and manmade fibers, as specified in U.S. bilateral textile agreements and described by the Tariff Schedules of the United States Annotated (TSUSA) item numbers set forth in the appendix to this notice; and "men's and boys' apparel" includes those items described by TSUSA item numbers in the appendix. Exclusions from the above-described product coverage are noted in the footnotes to the appendix.

On August 28, 1978, notices of receipt of countervailing duty petition and initiation of investigation were published in the FEDERAL REGISTER for men's and boys' apparel and textile mill products of cotton, wool, and manmade fibers from Malaysia (43 FR 38479), Mexico (43 FR 38482), Pakistan (43 FR 38485), Singapore (43 FR 38489), and Thailand (43 FR 38492). Since the same petitioner is involved and product coverage is meant to be the same as for the eight previously initiated investigations, it has been determined that the textual description of product coverage in those notices should also be amended to read as set forth above and that footnote 1 and the appendix in each of those notices should be and is, hereby, replaced by the appendix to this notice.

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

OCTOBER 5, 1978.

APPENDIX

I. COTTON TEXTILES AND TEXTILE PRODUCTS

Textile yarns and threads:
- 300.60
- 301.—
- 303.—
- 303.10
- 303.20

Cordage:
- 315.05
- 315.10
- 315.15

Fabric:
- 319.21
- 319.23
- 319.25
- 312.27
- 319.29
- 320.—
- 321.—
- 322.—
- 323.—
- 324.—
- 325.—
- 326.—
- 327.—
- 328.—
- 329.—
- 330.—
- 331.—
- 332.10
- 332.40

Fabrics of special construction:
- 345.10(a)
- 345.35(a)
- 346.05
- 346.10
- 346.15
- 346.20
- 346.22
- 346.24
- 346.30
- 346.32
- 346.35
- 346.40
- 346.45
- 346.50(a)
- 346.56(a)
- 346.70
- 347.10
- 347.15
- 347.26
- 347.33
- 348.05(a)
- 349.10(a)
- 349.15
- 349.30(a)

I. COTTON TEXTILES—Continued

351.05
351.25(a)
351.40(a)
351.46(a)
351.50(a)
351.60(a)
351.80(a)
351.90(a)
352.10(a)
352.50(a)
352.80(a)
353.10(a)
353.50(a)
355.02
355.35
355.50
357.05(a)
357.70(a)
357.80(a)
358.05(a)
359.10

Furnishings:

360.20
360.25
360.30
360.76
360.81
361.05(a)
361.18(a)
361.50
361.54(a)
361.56
363.01
363.05(a)
363.30
363.40(a)
363.45(a)
363.50(a)
363.51(a)
363.55(a)
363.60(a)
364.07
364.13
364.16(a)
365.00
365.40(a)
365.50(a)
365.75(a)
365.77
365.78
366.03
366.06
366.09
366.15(a)
366.18
366.21
366.24
366.27
366.42
366.45
366.46
366.47
366.57(a)
366.60
366.63
366.65
366.69
366.75
366.77
366.79
727.82

Wearing apparel:

370.04(b)
370.08(b)
370.16(b)
370.24(b)
370.28(b)
370.32(b)
370.36(b)
370.40(b)
370.44(b)
370.48(b)

I. COTTON TEXTILES—Continued

370.52(b)
370.56(b)
370.60(b)
370.64(b)
370.68(b)
372.04(b)
372.08(b)
372.10 (a) (b)
372.15(b)
373.05 of cotton
373.10(a)
376.04 (a) (b)
376.54(b)
378.05 (a) (b)
378.10 (a) (b)
378.15 (a) (b)
378.20 (a) (b)
378.25 (a) (b)
380.00
380.05(a)
380.06
380.09
380.12
380.15
380.18
380.21
380.24
380.27
380.30
380.33
380.36
380.39
380.45(a)
380.51(a)
380.72(a)
380.75(a)
380.90(a) all 3 fibers

Miscellaneous textile products:

385.25
385.30
385.40
385.55(a)
385.60(a)
385.75(a)
385.80(a)
386.04
386.50

Headwear, gloves, luggage and handbags:

702.06(b)
702.12(b)
704.05 (a) (b)
704.10 (a) (b)
704.15 (a) (b)
704.40 (a) (b)
704.45 (a) (b)
704.50 (a) (b)
706.20 (a) (b)
706.22(b)
706.24 (a) (b)

(a) Cotton articles classified under this TSUS item number are covered by this notice if they are included in the textile category system used by the United States to monitor and administer the U.S. textile trade agreements made pursuant to the Arrangement Regarding International Trade in Textiles, done Dec. 20, 1973, 25 U.S.T. 1001, TIAS 7840.

(b) If the item is for men and boys, it is included in this notice. The term "men and boys" should be interpreted in accordance with the applicable headnotes to the schedule part and subpart in which the TSUS number falls. Where the phrase is not covered by such headnotes, items classified under the TSUS number which can be used by either sex are covered by this notice. Items under TSUS numbers identifiable as being intended exclusively for women are not covered by this notice.

II. WOOL TEXTILES AND TEXTILE PRODUCTS

Yarns and threads:

307.30
307.50
307.60
307.62
307.64

Cordage:

316.40

Fabrics:

335.35
336.10
336.15
336.20
336.25
336.30
336.35
336.40
336.50
336.55
336.60
337.50
337.55
339.05

Fabrics of special construction:

345.10(a)
345.30
345.35(a)
346.50(a)
346.52
346.56(a)
346.82
347.40
348.05(a)
349.30
351.20(a)
351.25(a)
351.80(a)
353.50(a)
355.15
355.16
355.18
357.10
357.15
357.20
357.60(a)
357.70(a)
358.08
358.09
358.30
358.35
359.30

Furnishings:

360.05
360.10(a)
360.15(a)
360.40(a)
360.46(a)
360.48(a)
360.65
360.70
361.05(a)
361.07
361.10
361.209(a)
361.42
361.44
361.46
361.48
361.80
363.10
363.15
363.20
363.65
363.70
363.75
364.20
364.22
365.11(a)
365.86(a)
367.05
367.10

II. WOOL TEXTILES—Continued

367.15
367.20
367.25
367.30

Wearing apparel:

372.08(b)
372.10 (a) (b)
372.25 (for male infants)
372.30(b)
372.35(b)
372.40(b)
372.45(b)
373.05 of wool
373.15
376.08(b)
378.35(b)
378.40(b)
378.45(b)
380.02
380.05(a)
380.45(a)
380.51(a)
380.57
380.59
380.61
380.63
380.66
380.72(a)
380.75(a)
380.90(a)

Miscellaneous textile products:

385.20
386.08(a)
388.10
388.20
388.30
388.40

Footwear, headwear, gloves:

700.75(b)
702.54(b)
702.56(b)
702.60(b)
702.65(b)
702.70(b)
702.75(b)
702.80(b)
704.20(b)
704.25(b)
704.30(b)
704.55(b)
704.56(b)
704.60(b)
704.65(b)
704.70(b)

(a) Wool articles classified under this TSUS item number are covered by this notice if they are included in the textile category system used by the United States to monitor and administer the U.S. textile trade agreements made pursuant to the Arrangement Regarding International Trade in Textiles, done Dec. 20, 1973, 25 U.S.T. 1001, TIAS 7840.

(b) If the item is for men and boys, it is included in this notice. The term "men and boys" should be interpreted in accordance with the applicable headnotes to the schedule part and subpart in which the TSUS number falls. Where the phrase is not covered by such headnotes, items classified under the TSUS number which can be used by either sex are covered by this notice. Items under TSUS numbers identifiable as being intended exclusively for women are not covered by this notice.

III. MANMADE FIBER TEXTILES AND TEXTILE PRODUCTS

Yarns and Threads:

308.60(a)
308.65(a)
308.66(a)

III. MANMADE FIBER TEXTILES—Continued

308.70(a)
308.71(a)
308.75(a)
309.98
309.99
310.01
310.02
310.05
310.06
310.10
310.11
310.20
310.21
310.40
310.50
310.60
310.80
310.90
310.91

Cordage:

316.60

Fabric:

335.60(a)
337.60(a)
337.70(a)
337.80(a)
337.90(a)
338.10(a)
338.15(a)
338.25
338.27
338.30

Fabrics of special construction:

345.10(a)
345.35(a)
345.50(a)
346.50(a)
346.56(a)
346.60
346.90
347.55
347.60
347.65
347.68
347.69
347.70
348.00(a)
348.05(a)
349.10(a)
349.25(a)
349.30(a)
350.00(a)
351.20(a)
351.25(a)
351.30
351.46(a)
351.50(a)
351.70(a)
351.80(a)
351.90(a)
352.20(a)
352.30(a)
352.40(a)
352.80(a)
353.50(a)
355.25
355.45(a)
355.60
355.82
357.35(a)
357.45(a)
357.60(a)
357.70(a)
357.80(a)
359.50

Furnishings:

360.46(a)
360.48(a)
360.78
360.83
361.05(a)
361.18(a)

III. MANMADE FIBER TEXTILES—Continued

361.20(a)
361.54(a)
361.56(a)
363.25(a)
363.85
364.30
365.11(a)
365.20
365.31(a)
365.35(a)
365.45(a)
365.50(a)
365.70(a)
365.75(a)
365.86(a)
367.50
367.55
367.59
367.60

Miscellaneous textile products:

385.53
385.61
385.70(a)
385.75(a)
385.85(a)
389.62(a)

Wearing apparel:

370.21(b)
370.88(b)
372.06(b)
372.08(b)
372.10 (a) (b)
372.70(b)
372.75(b)
373.05 of manmade fibers
373.25
373.27
376.56 (a) (b)
378.05 (a) (b)
378.60(b)
378.65(b)
380.04
380.45(a)
380.51(a)
380.72(a)
380.75(a)
380.81
380.84
380.90(a)

Headwear, gloves:

703.05(b)
703.10(b)
703.15(b)
703.90 (a) (b)
703.95 (a) (b)
704.32(b)
704.85(b)
704.90(b)

(a) Manmade fiber articles classified under this TSUS item number are covered by this notice if they are included in the textile category system used by the United States to monitor and administer the U.S. textile trade agreements made pursuant to the Arrangement Regarding International Trade in Textiles, done Dec. 20, 1973, 25 U.S.T. 1001, TIAS 7840.

(b) If the item is for men and boys, it is included in this notice. The term "men and boys" should be interpreted in accordance with the applicable headnotes to the schedule part and subpart in which the TSUS number falls. Where the phrase is not covered by such headnotes, items classified under the TSUS number which can be used by either sex are covered by this notice. Items under TSUS numbers identifiable as being intended exclusively for women are not covered by this notice.

Gloves:

IV. LEATHER *

705.30
705.35
705.40
705.42
705.43
705.45
705.46
705.48
705.50
705.51
705.53
705.54
705.55
705.57
705.58

Wearing apparel:
791.74(a)
791.76(b)

Rubber and plastics:
705.85(b)
705.86—gloves (dipped) (b)

* These item... apply only to the cases involving Brazil, Colombia, India, the Philippines, Mexico and Pakistan. The cases involving Malaysia, Singapore, and Thailand include all of these items except Nos. 705.30 and 791.76.

(a) Leather articles classified under this TSUS item number are covered by this notice if they are included in the textile category system used by the United States to monitor and administer the U.S. textile trade agreements made pursuant to the Arrangements Regarding International Trade in Textiles, done Dec. 20, 1973, 25 U.S.T. 1001, TIAS 7840.

(b) If the item is for men and boys, it is included in this notice. The term "men and boys" should be interpreted in accordance with the applicable headnotes to the schedule part and subpart in which the TSUS number falls. Where the phrase is not covered by such headnotes, items classifed under the TSUS number which can be used by either sex are covered by this notice. Items under TSUS numbers identifiable as being intended exclusively for women are not covered by this notice.

[FR Doc. 78-28904 Filed 10-12-78; 8:45 am]

[4810-25-M]

Office of the Secretary

[General Counsel Order No. 1 (Rev.)]

LEGAL DIVISION

Organization and Functions

Under the authority granted to me as General Counsel of the Department of the Treasury by 31 U.S.C. 1009 and 26 U.S.C. 7801, by Department Circulars 519 of June 30, 1934, and 595 of September 13, 1938, and by Treasury Department Order No. 190 (Revised), I hereby define and prescribe the organization and functions of the Legal Division of the Treasury Department.

1. The Legal Division consists of a consolidated legal staff headed by the General Counsel, who is by statute the chief law officer of the Department of the Treasury, and is composed of all attorneys providing legal service in all offices and bureaus of the Treasury Department and all support personnel assigned to them. The legal staff provides legal advice to the Secretary of the Treasury and to the officers, offices and bureaus of the Department in accordance with the designations made by this Order. The General Counsel operates principally through a Deputy General Counsel, the Assistant General Counsels, the Chief Counsels, and the Legal Counsels listed herein, to whom delegations of specific authority are made by Legal Division Orders.

2. The General Counsel provides legal advice to the Secretary of the Treasury, the Deputy Secretary, the Under Secretaries, and the Assistant Secretaries on any legal matter which may arise within the Department. He supervises the Legal Division and establishes the policies, procedures, and standards governing its functioning.

3. The Deputy General Counsel is an Assistant General Counsel designated to serve as deputy and act as General Counsel in the absence of the General Counsel. The Deputy General Counsel reviews work prepared for the General Counsel and supervises the day-to-day operation of the Legal Division. He receives on behalf of the General Counsel reports from the Assistant General Counsels and Chief Counsels, excepting the Assistant General Counsel who is the Chief Counsel of the Internal Revenue Service and the Assistant General Counsel—Tax Legislative Counsel who report directly to the General Counsel.

4. The Assistant General Counsel—Chief Counsel, Internal Revenue Service, is the legal adviser to the Commissioner of the Internal Revenue Service and supervises and directs the legal staff advising the Internal Revenue Service. He reports directly to the General Counsel.

5. The Assistant General Counsel—Tax Legislative Counsel is the legal adviser to the Assistant Secretary (Tax Policy) and provides advice concerning tax legislation, tax policy, and tax treaties. He reports directly to the General Counsel.

6. The Assistant General Counsel (International Affairs) provides legal advice to the Under Secretary (Monetary Affairs), the Assistant Secretary (International Affairs), the Assistant Secretary (Economic Policy), the Commissioner of Customs (on tariff affairs), the Deputy Assistant Secretary (Tariff Affairs), and the Special Assistant to the Secretary (National Security). He supervises the Senior Counsel (Developing Nations Finance) and the Senior Counsel (International Trade and Tariff Affairs). He reports to the General Counsel through the Deputy General Counsel.

7. The Assistant General Counsel (Administration, Legislation and Fiscal Operations) provides legal advice to the Assistant Secretary (Administration), the Fiscal Assistant Secretary, the Assistant Secretary (Legislative Affairs), and to the Office of the Secretary generally with respect to administrative procedure and Department administration. He also serves as legal adviser to the Treasurer of the United States, the Assistant Secretary (Public Affairs), and to the U.S. Savings Bonds Division. He is in charge of the nontax legislative activities of the Department. He supervises the Chief Counsel, Bureau of the Public Debt, and the legal functions of the Director, Office of the Director of Practice. He reports to the General Counsel through the Deputy General Counsel.

8. The Assistant General Counsel (Enforcement and Operations) provides legal advice to the Assistant Secretary (Enforcement and Operations). He acts for the General Counsel in the supervision of all nontax litigation matters and tax litigation matters which arise out of the activities of the Bureau of Alcohol, Tobacco and Firearms requiring General Counsel action. He supervises the Senior Counsel (Enforcement and Operations), the Chief Counsel, U.S. Customs Service, the Chief Counsel of the Bureau of Alcohol, Tobacco and Firearms, the Chief Counsel of the Office of Foreign Assets Control, the Legal Counsel, Bureau of the Mint, the Legal Counsel, U.S. Secret Service, the Legal Counsel, Federal Law Enforcement Training Center, and the Legal Counsel, Bureau of Engraving and Printing. He reports to the General Counsel through the Deputy General Counsel.

9. The Assistant General Counsel (Domestic Finance) provides legal advice to the Assistant Secretary (Domestic Finance) and to the subordinates of that official. He supervises the Chief Counsel, Office of Revenue Sharing. He reports to the General Counsel through the Deputy General Counsel.

10. The Counselor to the General Counsel assists the General Counsel and the Deputy General Counsel by undertaking special assignments pertaining to any area of responsibility in the Office of the General Counsel. He reports to the General Counsel through the Deputy General Counsel.

11. The Chief Counsel, Bureau of Alcohol, Tobacco and Firearms, is the chief law officer for that Bureau and reports to the General Counsel through the Assistant General Counsel (Enforcement and Operations) and the Deputy General Counsel.

12. The Chief Counsel, Office of the Comptroller of the Currency, is the chief law officer for that office and reports to the General Counsel through the Deputy General Counsel.

13. The Chief Counsel, United States Customs Service, is the chief law officer for that Service and reports to the General Counsel through the Assistant General Counsel (Enforcement and Operations) and the Deputy General Counsel.

14. The Chief Counsel, Foreign Assets Control, is the chief law officer for that office and reports to the General Counsel through the Assistant General Counsel (Enforcement and Operations) and the Deputy General Counsel.

15. The Chief Counsel, Bureau of the Public Debt, is the chief law officer for that Bureau, and reports to the General Counsel through the Assistant General Counsel (Administration, Legislation and Fiscal Operations) and the Deputy General Counsel.

16. The Chief Counsel, Office of Revenue Sharing, is the chief law officer for that Office, and reports to the General Counsel through the Assistant General Counsel (Domestic Finance) and the Deputy General Counsel.

17. The Legal Counsel, Bureau of the Mint, provides legal advice to that Bureau and reports to the General Counsel through the Assistant General Counsel (Enforcement and Operations) and the Deputy General Counsel.

18. The Legal Counsel, United States Secret Service, provides legal advice to that Service and reports to the General Counsel through the Assistant General Counsel (Enforcement and Operations) and the Deputy General Counsel.

19. The Legal Counsel, Federal Law Enforcement Training Center, provides legal advice to that Center and reports to the General Counsel through the Assistant General Counsel (Enforcement and Operations) and the Deputy General Counsel.

20. The Legal Counsel, Bureau of Engraving and Printing, provides legal advice to that Bureau and reports to the General Counsel through the Assistant General Counsel (Enforcement and Operations) and the Deputy General Counsel.

21. The Director of Practice (1) directs the legal functions performed in his office and reports with respect to those functions to the General Counsel through the Assistant General Counsel (Administration, Legislation and Fiscal Operations) and the Deputy General Counsel; (2) makes operating decisions in carrying out the responsibilites placed on him under 31 U.S.C. 1026 and by 31 CFR Part 10 under the administrative supervision of the General Counsel exercised by the General Counsel or the Deputy General Counsel; and (3) serves as Executive Director of the Joint Board of Actuaries pursuant to Part 901, Chapter VIII of Title 20, CFR.

A change in title of any official in the Office of the Secretary shall not affect the foregoing assignments unless the change includes a change of function. The General Counsel may, without formal Order, reassign on a temporary basis a function of an Assistant General Counsel or the Counselor.

Dated: October 10, 1978.

ROBERT H. MUNDHEIM,
General Counsel.

[FR Doc. 78-29003 Filed 10-12-78; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. MC-64; General Temporary Order No. 11; Section 210a(a)]

GRANTING OF SHORT TERM EMERGENCY TEMPORARY AUTHORITY

Supplemental Decision

Decided: October 5, 1978.

By order served on January 18, 1978, in Ex Parte No. MC-64, General Temporary Order No. 11, which remains in effect continuously until cancelled, the Commission established procedures which under situations resulting in serious hardship to shippers and possible danger to life and property allow for the granting of short term emergency temporary authority at times when Commission employees are not generally available. Such times would be weekends, holidays and after business hours.

It is ordered: In view of several changes in staff, the following is an amended list of officials of the Commission designated as authorized to grant applications of the type described in the original order for a period not to exceed 10 days.

Name, residence and home phone No.

Arthur E. Bacon, Boston, Mass., 617-275-8696.
Daniel B. Lorusso, New York, N.Y., 914-738-4841.
Robert W. Waldron, Philadelphia, Pa., 609-227-2793.
Anthony W. Bummara, Philadelphia, Pa., 609-227-2793.
Jack K. Huff, Atlanta, Ga., 404-351-5301.
Bruce R. Reichelderfer, Atlanta, Ga., 404-992-9416.
David V. Armitage, Park Forest, Ill., 312-747-5022.
A. Paul Bates, Wheaton, Ill., 312-690-1365.
James H. Berry, Fort Worth, Tex., 817-926-3385.
Haldon G. West, Fort Worth, Tex., 817-294-0965.
John E. Nance, San Francisco, Calif., 415-489-8630.
Joseph F. Kucera, San Francisco, Calif., 415-755-7790.
Philip Yallowitz, Los Angeles, Calif., 213-347-3037.

The original order inadvertently failed to include the requirement that applicants who do not hold authority from the Commission must also furnish evidence as to the designation of agents for service of process.

This supplemental decision shall become effective October 10, 1978.

The provisions of General Temporary Order No. 11, effective February 1, 1978 and this Supplemental Decision will remain in effect until cancelled by further decision of the Commission.

Notice of this order shall be given to motor carriers, other parties of interest, and to the general public by depositing a copy thereof in the Office of the Secretary of the Commission, Washington, D.C., and by filing a copy thereof with the Director, Office of the Federal Register.

By the Commission, Division 1, Commissioners Stafford, Gresham and Christian.

H. G. HOMME, Jr.
Acting Secretary.

[FR Doc. 78-29041 Filed 10-12-78; 8:45 am]

[7035-01-M]

[Notice No. 187]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

OCTOBER 2, 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 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

MC 730 (Sub-419TA), filed August 17, 1978. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO. (PIE), P.O. Box 958, Oakland, CA 94612. Representative: R. N. Cooledge, P.O. Box 958, Oakland, CA 94612. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt* (in bulk, in tank vehicles), from Boise, ID, to Salem and Medford, OR, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Husky Oil Co., 600 South Cherry Street, Denver, CO 80222. Send protests to: A. J. Rodriguez, District Supervisor, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC 2202 (Sub-566TA), filed August 18, 1978. Applicant: ROADWAY EXPRESS, INC., P.O. Box 471, 1077 Gorge Boulevard, Akron, OH 44309. Representative: William O. Turney, 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, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Canton, MS, as an off-route point in connection with applicant's regular routes, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Ryan & Co., P.O. Box 647, Canton, MS 39046. Send protests to: Interstate Commerce Commission, 731 Federal Building, 1240 East Ninth Street, Cleveland, OH 44199.

MC 3854 (Sub-44TA), filed August 17, 1978. Applicant: BURTON LINES, INC., P.O. Box 11306, East Durham Station, Durham, NC 27703. Representative: G. E. Martin, Jr., 815 Ellis Road, Durham, NC 27703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing, building materials and industrial asphalt*, from the plantsite of Trumbull Asphalt Co. at Morehead City, NC, and points in Carteret County, NC, to points in VA, for 180 days. Supporting shipper: Trumbull Asphalt Co., Inc., Morehead City, NC. Send protests to: Archie W. Andrews, District Supervisor, Interstate Commerce Commission, 624 Federal Building, 310 New Bern Avenue, P.O. Box 26896, Raleigh, NC 27611.

MC 4483 (Sub-23TA), filed August 17, 1978. Applicant: MONSON DRAY LINE, INC., R.R. No. 1, Red Wing, MN 55066. Representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Newsprint paper and groundwood paper*, from the port of entry on the United States-Canada border at or near Sault St. Marie, MI, to points in MN for 180 days. Supporting shipper: Abitibi Paper Co., Ltd., Toronto Dominion Centre, Toronto, Ontario, Canada M5K 1B3. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401.

MC 59655 (Sub-16TA), filed August 17, 1978. Applicant: SHEEHAN CARRIERS, INC., 62 Lime Kiln Road, Suffern, NY 10901. Representative: Richard J. Miller (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers and shipping materials and supplies, and return rejected containers*, between Piscataway, NJ, and Perry, GA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): National Can Corp., Route 287 and South Randolphville Road, Piscataway, NJ 08854. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commision, 26 Federal Plaza, New York, NY 10007.

MC 61396 (Sub-355TA), filed August 18, 1978. Applicant: HERMAN BROS., INC., 2565 St. Marys Avenue, P.O. Box 189, Omaha, Nebr. 68101. Representative: John E. Smith, II (same address as applicant). Authority sought 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 the States of MN, WI, ND, SD, and NE, for 180 days. Supporting shipper: Sue Johnson, Distribution Control Specialist, Land O'Lakes, Agricultural Services Division, 2827 8th Avenue South, Fort Dodge, IA 50501. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 63417 (Sub-164TA), filed August 17, 1978. Applicant: BLUE RIDGE TRANSFER CO., INC., P.O. Box 13447, Roanoke, VA 24034. Representative: William E. Bain, P.O. Box 13447, Roanoke, VA 24034. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Insulating materials and materials and supplies* used in the installation of insulating material, from Spring Hope NC, to points in DE, FL, GA, IN, KY, MD, NJ, NY, OH, PA, SC, TN, VA, WV, and DC, for 180 days. Supporting shipper: Spring Hope Rockwool, Inc., Spring Hope, NC 27882. Send protests to: Interstate Commerce Commission, Bureau of Operations, P.O. Box 210, Roanoke, VA 24011.

MC 102567 (Sub-211TA), filed August 15, 1978. Applicant: McNAIR TRANSPORT, INC., 4295 Meadow Lane, P.O. Drawer 5357, Bossier City, LA 71111. Representative: Mr. Joe C. Day, 2040 North Loop West, Suite 208, Houston, TX 77018. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank and hopper-type vehicles between ERCO Industries, Inc., plant (located approximately 5 miles south of Monroe, LA on Hwy 165 at or near the community known as Rilla, LA) and points in AL, AR, FL, GA, KY, MS, MI, NC, OK, SC, TN, TX, and VA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: ERCO Industries, Inc., P.O. Box 1612, Monroe, LA 71201. Send protests to: Connie A. Guillory, Interstate Commerce Commission, Bureau of Operations, T-9038 U.S. Postal Service Building, 701 Loyola Avenue, New Orleans, LA 70113.

MC 104896 (Sub-54TA), filed August 17, 1978. Applicant: WOMELDORF, INC., P.O. Box "G", Knox, PA 16232. Representative: James W. Patterson, 1200 Western Savings Bank Building, Philadelphia, PA 19107. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale, retail, and chain grocery and food business houses, (except frozen foods and commodities in bulk), from the facilities of Dauphin Distribution Services, Inc., at Camp Hill, Hampden Township and Silver Spring Township, PA, to points in PA, and NY, for 180 days. Supporting shipper: Dauphin Distribution Services, Inc., 5023 E. Trindle Road, Mechanicsburg, PA 17055. Send protests to: John J. England, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

MC 109124 (Sub-51TA), filed August 18, 1978. Applicant: SENTLE TRUCK-

ING CORP., P.O. Box 7850, Toledo, OH 43619. Representative: James M. Burtch, 100 East Broad Street, Suite 1800, Columbus, OH. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum and gypsum products and materials and supplies* used in the installation and distribution thereof, from the facilities of Georgia Pacific Corp., Gypsum Products Division, located at Buchanan and Croton-on-Hudson, Westchester County, NY, to points in MI and OH, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Georgia Pacific Corp., Gypsum Products Division, 1062 Lancaster Avenue, Rosemont, PA 19010. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 313 Federal Office Building, 234 Summit Street, Toledo, OH 43604.

MC 109638 (Sub-33TA), filed August 17, 1978. Applicant: EVERETTE TRUCK LINE, INC., P.O. Box 145, Hodges Street, Washington, DC 27889. Representative: Cecil W. Bradley, P.O. Box 145, Cherry Road, Washington, DC 27889. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, plywood, and landscape timbers*, from Plymouth and Weyco, NC, to points in DE and NJ, from Kellum and Lewiston, NC, to points in ME, MA, CT, RI, VT, NY, NJ, PA, DE, MD, VA, DC and NH, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Weyerhaeuser Co., P.O. Box 787, Plymouth, NC. Send protests to: Archie W. Andrews, District Supervisor, Interstate Commerce Commission, 624 Federal Building, 310 New Bern Avenue, P.O. Box 26896, Raleigh, NC 27611.

MC 110420 (Sub-784TA), filed August 17, 1978. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, WI 53158. Representative: Michael V. Kaney (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vegetable oils and shortenings*, (in bulk, in tank vehicles), from Columbus, OH, to points in WI, for 180 days. Supporting shipper: Capital City Products Co., 525 West First Avenue, Columbus, OH 43216. 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 112801 (Sub-208TA), filed August 17, 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: *Corn syrup and corn sweeteners* (in bulk, in tank vehicles), from the facilities of A. E. Staley Mfg. Co., located in the Chicago, IL, Commercial Zone to points in IL, IN, KY, MI, NY, OH, PA, WV, and WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Robert L. Lighthall, Assistant to Director, Corporate Transportation, A. E. Staley Mfg. Co., 2200 East Eldorado Street, Decatur, IL 62525. Send protests to: Lois M. Stahl, Transportation Assistant, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 114457 (Sub-402TA), filed August 18, 1978. Applicant: DART TRANSIT CO. 2102 University Avenue, St. Paul, MN 55114. Representative: James H. Wills, 2102 University Avenue, St. Paul, MN 55114. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products in packages*, from the facilities of Texaco in Jefferson County, TX, to points in MN, WI, IA, MO, IL, IN, NE, SD, ND, OH, MI, and Louisville, KY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Texaco, Inc., 1111 Rusk, Houston, TX 77052. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 1100 South Fourth Street, Minneapolis, MN 55401.

MC 115311 (Sub-300TA), filed August 9, 1978. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Representative: Kim G. Meyer, 1200 Gas Light Tower, 235 Peachtree Street, Atlanta, GA 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials, gypsum and oypsum products* from the facilities of United States Gypsum Co. at Martin County, IN to points in OH, KY, TN, WV, IL, and MO, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: United States Gypsum Co., 101 South Wacker Drive, Chicago, IL 60606. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 West Peachtree Street, NW., Room 300, Atlanta, GA 30309.

MC 116763 (Sub-428TA), filed August 10, 1978. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: H. M. Richters (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in 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: Gulf Atlantic Distribution Services, Mr. Clair Williams, Manager, Marketing & Distribution Services, P.O. Box 2588, Houston, TX 77001. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514-B Federal Building, 550 Main Street, Cincinnati, OH 45202.

MC 119789 (Sub-512TA), filed August 17, 1978. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: Lewis Coffey (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Drugs and medicine*, from New Brunswick, Somerset and South Plainfield, NJ, to Mission, KS, for 180 days. Supporting shipper: E. R. Squibb & Sons, 5 Georges Road, New Brunswick, NJ 08903. Send protests to: Opal M. Jones, Transportation Assistant, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 120257 (Sub-46TA), filed August 17, 1978. Applicant: K. L. BREEDEN & SONS, INC., P.O. Box 207, Ore City, TX 75683. Representative: Nolan Killingsworth (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel castings*, from Little Rock, AR, to Lufkin, TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Lufkin Industries, Inc., P.O. Box 849, Lufkin, TX 75901. Send protests to: Opal M. Jones, Transportation Assistant, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 120427 (Sub-20TA), filed August 17, 1978. Applicant: WILLIAMS TRANSFER, INC., P.O. Box 488, 2128 East Highway 30, Grand Island, NE 68801. Representative: John K. Walker (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from Milwau-

kee, WI, and commercial zone thereof, to Kearney, NE, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Stuart Huber, Purchasing Agent, P.O. Box 388, Caldwell Manufacturing Co., Kearney, NE 68847. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building and Courthouse, 100 Centennial Mall North, Lincoln, NE 68508.

MC 123048 (Sub-410TA), filed August 18, 1978. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021 21st Street, Racine, WI 53406. Representative: Carl S. Pope (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Grain drying, storage, handling, conditioning and aeration equipment and attachments, accessories and parts*, from Mattoon, IL, to points in AR, IN, IA, KY, MN, MS, MO, NE, NY, ND, OH, PA, SD, TN, WV, and WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Superior Equipment Manufacturing Co., 1321 South 19th, Box 768, Mattoon, IL 61938 (Max E. Sample, Traffic Manager). Send protests to: John E. Ryden, District Supervisor, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 124078 (Sub-853TA), filed August 18, 1978. Applicant: SCHWERMAN TRUCKING CO., P.O. Box 1601, Milwaukee, WI 53215. Representative: Richard H. Prevette (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, from Hagerstown, MD, to points in DE, DC, NJ, NC, PA, VA, and WV, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: G & W Natural Resources Group-Marquette Co., 2200 First American Center, Nashville, TN 37238 (Steven W. Cardin Manager Transportation Pricing). Send protests to: John E. Ryden, District Supervisor, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 124554 (Sub-28TA), filed August 17, 1978. Applicant: LAND 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 points in Benton, Carlton, Chisago, Isanti, Kanabec, Mille Lacs, Pine, St. Louis, and Sherburne Counties, MN. and Ashland, Bayfield, Douglas, Iron, and Vilas Counties, WI, under a continuing contract, or conbtracts, with Stanley Home Prouducts, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Stanley Home Products, Inc., 3110 Washington Street, Dubuque, IA 52001. 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 126118 (Sub-90TA), filed August 18, 1978. Applicant: CRETE CARRIER CORP., P.O. Box 81228, Lincoln, NE 68501. Representative: Duane W. Acklie (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and cardboard articles*, from Louisiana and Shelbina, MO, and their commercial zones to Lincoln and Fremont, NE, and their commercial zones, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: (1) Kenneth Grosenbach, Traffic Manager, Hy-Gain Electronic, Division of Telex Communications, Inc., 8601 Northeast Hwy 6, Lincoln, NE 68505; (2) Arnett Wise, Inventory Control Manager, Consolidated Aluminum Co., Douglas and Chestnut Streets, Shelbina, MO 63468. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building and Courthouse, 100 Centennial Mall North, Lincoln, NE 68508.

MC 126118 (Sub-92TA), filed August 18, 1978. Applicant: CRETE CARRIER CORP., P.O. Box 81228, Lincoln, NE 68501. Representative: Duane W. Acklie (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rubber articles*, from Franklin, IN, and Hot Springs, AR, and their commercial zones to points in AZ and CA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: John Blankenship, General Manager, Alliance Rubber Co., P.O. Box 306, Franklin, KY 42134. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building, and Courthouse, 100 Centennial Mall North, Lincoln, NE 68508.

MC 127274 (Sub-49TA), filed August 18, 1978. Applicant: SHERWOOD TRUCKING, INC., P.O. Box 2189, 1517 Hoyt Avenue, Muncie, IN 47302. Representative: Donald W. Smith, Suite 945, 9000 Kenstone Crossing, P.O. Box 40695, Indianapolis, IN 46240. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Newsprint paper and groundwood paper*, from the facilities of Bowater Southern Paper Corp., at or near Calhoun, TN, to points in IN south of U.S. Hwy 40, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Bowater Southern Paper Corp., Calhoun, TN 37309. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

MC 134806 (Sub-50TA), filed August 18, 1978. Applicant: B-D-R TRANSPORT, INC., P.O. Box 1277, Brattleboro, VT 05301. Representative: Francis J. Ortman, 7101 Wisconsin Avenue, Suite 605, Washington, DC 20014. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Stuffed toys and animals*, from Keene, NH, to Chicago, IL; Salt Lake City, UT; Denver, CO; Reno, NV, and points in CA, under a continuing contract, or contracts, with Douglas Co., Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Douglas Co., Inc., Drawer D, Krif Road, Keene, NH 03431. Send protests to: David A. Demers, District Supervisor, Interstate Commerce Commission, P.O. Box 548, Montpelier, VT 05602.

MC 135524 (Sub-12TA), filed August 18, 1978. Applicant: G. F. TRUCKING CO., 1028 West Rayen Avenue, P.O. Box 229, Youngstown, OH 44501. Representative: George Fedorisin, 1455 McCollum Road, Youngstown, OH 44509. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Conveyors, conveyor systems and accessories, parts, materials, supplies, and equipment* necessary for the erection, installation, completion, and maintenance thereof, from Florence, KY, to Williamsburg, VA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Litton Unit Handling Systems, 7100 Industrial Road, Florence, KY 41042. Send protests to: Interstate Commerce Commission, 731 Federal Building, 1240 East Ninth Street, Cleveland, OH 44199.

MC 136818 (Sub-33TA), filed August 9, 1978. Applicant: SWIFT TRANS-

PORTATION CO., INC., 335 West Elwood, Phoenix, AZ 85030. Representative: Donald Fernaays, 4040 East McDowell Road, Phoenix, AZ 85008. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum wallboard and gypsum plaster*, from Clark County, NV to San Diego, Orange, Riverside, Los Angeles, Ventura, San Bernardino, Kern, and Imperial Counties, CA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Flintkote Supply Co., 2201 East Washington Boulevard, Los Angeles, CA 90021. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Room 2020 Federal Building, 230 North First Avenue, Phoenix, AZ 85025.

MC 138255 (Sub-5TA), filed August 11, 1978. Applicant: DAYTON AIR FREIGHT, INC., Dayton International Airport, P.O. Box 78, Vandalia, OH 45377. Representative: Linda A. McCorkle, Esq., 1015 18th Street NW., Suite 408, Washington, DC 20036. Authority sought 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, Vandalia, OH; Greater Cincinnati Airport, Erlanger, KY; and Weir Cook International Airport, Indianapolis, IN; and (2) between the points named in (1) above, on the one hand, and, on the other, O'Hare International Airport, Chicago, IL; JFK International Airport, Jamaica, NY; Detroit Metropolitan Airport, Romulus, MI; and Willow Run Airport, Detroit, MI; having a prior or subsequent movement by air, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately seven 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 field office named below. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514-B Federal Building, 500 Main Street, Cincinnati, OH 45202.

MC 139485 (Sub-11TA), filed August 18, 1978. Applicant: TRANS CONTINENTAL CARRIERS, INC., 169 East Liberty Avenue, Anaheim, CA 92803. Representative: Patricia M. Schnegg, Knapp, Stevens, Grossman & Marsh, 1800 United California Bank Building, 707 Wilshire Boulevard, Los Angeles, CA 90017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen fruits and vegetables*, from Santa Clara, San Benito, Monterey, and Santa Cruz Counties, CA, to 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: Golden West Foods, Inc., 1350 Pacheco Pass Hwy, Gilroy, CA 95020. Send protests to: Irene Carlos, District Supervisor, Interstate Commerce Commission, Room 1321, Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 140033 (Sub-64TA), filed August 17, 1978. Applicant: COX REFRIGERATED EXPRESS, INC., 10606 Goodnight Lane, Dallas, TX 75220. Representative: D. Paul Stafford, Winkle & Wells, Suite 1125 Exchange Park, P.O. Box 45538, Dallas, TX 75245. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectionery items*, from Covington, TN, to AL, AZ, CA, CO, FL, GA, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, NV, NM, NC, OH, OK, OR, SC, UT, WI, WY, TX, and WA, for 180 days. Supporting shipper: Charms Co., Halls Mill Road, Freehold, NJ 07728. Send protests to: Opal M. Jones, Transportation Assistant, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 140101 (Sub-6TA), filed August 15, 1978. Applicant: I. T. A. TRUCKING, INC., P.O. Box 219, Amherst, WI 54406. Representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except in bulk), from the facilities used by Ore-Ida Foods, Inc., at or near Plover, WI to points in and east of ND, SD, NE, KS, OK, and TX, for 180 days. Restriction: Restricted to traffic originating at the named origin and destined to the named States. Supporting shipper: Ore-Ida Foods, Inc., Owyhee Plaza, Boise, ID 83702. Send protests to: Ronald A. Morken, District Supevisor, Interstate Commerce Commission, 212 East Washington Avenue, Room 317, Madison, WI 53703.

MC 141220 (Sub-2TA), filed August 18, 1978. Applicant: MOYER TRUCK LINE, INC., 715 North Mallenix, Kirksville, MO 63501. Representative: Clyde N. Christey, Kansas Credit Union Building, 1010 Tyler, Suite 110L, Topeka, KS 66612. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry animal and poultry feed and dry animal and poultry feed ingredients*, from the plantsite of Farmland Industries, Inc., in Kansas City, KS, to the plantsite of Farmland Industries in Boone County, MO, for 180 days. Supporting shipper: Farmland Industries, Inc., 315 North Oak, Kansas City, MO 64116. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

MC 142020 (Sub-1TA), filed August 18, 1978. Applicant: M. S. CARRIERS, INC., 7372 Eastern Avenue, Germantown, TN 38138. Representative: 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) *Such commodities as are manufactured, processed, sold, used, distributed, or dealt in by manufacturers or converters of paper and paper products* (except commodities in bulk), between Memphis, TN, and points in its commercial zone, on the one hand, and, on the other, points in LA; (2) *automotive parts, materials, and supplies; pipe fittings, hose, and accessories thereto; and equipment, materials, and supplies utilized in the manufacture of the previously-named items*, between Batesville, MS; Trumann, AR; Arlington, TX; East Lake and Cleveland, OH; and points in their commercial zones, for 180 days. Supporting shippers: (1) Kimberly-Clark Corp., 1414 West Larsen Road, Neenah, WI 54956; (2) Parker-Hannifin Corp., 17-325 Euclid Avenue, Cleveland, OH 44112. 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 142207 (Sub-21TA), filed August 15, 1978. Applicant: GULF COAST TRUCK SERVICES, INC., P.O. Box 29287, New Orleans, LA 70189. Representative: Bruce E. Mitchell, SERBY & MITCHELL, P.C., Fifth Floor, Lenox Towers I, 3390 Peachtree Road, Atlanta, GA 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and wood products* (1) between points in NC, SC, GA, AL, TN, MS, LA, AR, OK, and TX; and (2) between points in the territory identified in (1) above, on the one hand, and on the other, points in FL, VA, WV, MD, PA, NY, OH, KY, IN, MI, IL, WI, MO, IA, MN, KS, and NE, for 180 days. Restriction: Restricted to traffic moving on the bills of lading of Steel City Lumber Co. and Stringfellow Lumber Co. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Steel City Lumber

Co., P.O. Box 20217, Birmingham, AL 35216 and Stringfellow Lumber Co., Inc., P.O. Box 1107, Birmingham, AL 35201. Send protests to: Connie A. Guillory, Interstate Commerce Commission, T-9038, U.S. Postal Service Building, 701 Loyola Avenue, New Orleans, LA 70113.

MC 142559 (Sub-38TA), filed August 17, 1978. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Avenue, Cleveland, OH 44114. Representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Personal care products, chewing gum, cough drops and candies*, from Rockford, IL, and New York, NY, to Atlanta, GA, and its commercial zone, for 180 days. Supporting shipper: Warner-Lambert Co., 201 Tabor Road, Morris Plains, NJ 07950. Send protests to: District Supervisor, Interstate Commerce Commission, 731 Federal Building, 1240 East Ninth Street, Cleveland, OH 44199.

MC 142559 (Sub-39TA), 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. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Furnaces and central air conditioning units, and materials, equipment and supplies* used in the installation and operation thereof, (except commodities in bulk), from Utica, NY, to all points in west and south of OH, PA and NJ, for 180 days. Supporting shipper: Friedrich Group, Utica Manufacturing Operations, Wylain, Inc., 2007 Beechgrove Place, Utica, NY 13301. Send protests to: Interstate Commerce Commmission, 731 Federal Building, 1240 East Ninth Street, Cleveland, OH 44199.

MC 143088 (Sub-2TA), filed August 18, 1978. Applicant: ROBERT TARBOX, d.b.a. TARBOX TRUCKING, Johnson Heights, Blossburg, PA 16912. Representative: S. Berne Smith, P.O. Box 1166, Harrisburg, PA 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bulk soybean meal and/or hulls*, from the facilities of Cargill, Inc., at or near Sidney, OH to points in DE, MD, NJ, NY, PA, VT, and CT., for 180 days. Supporting shipper: Cargill, Inc., 2400 Industrial Drive, Sidney, OH 45365. Send protests to: Paul J. Kenworthy, District Supervisor, Interstate Commerce Commission, 314 U.S. Post Office Building, Scranton, PA 18503.

MC 143209 (Sub-4TA), filed August 15, 1978. Applicant: HOUSTON FREIGHTWAYS, INC., 9431 Sanford, P.O. Box 4730, Galena Park, TX 77547. Representative: J. G. Dial, Jr., P.O. Box 567, McLean, VA 22101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tank materials, and equipment and supplies* used in the erection of tanks, from the facilities of Chicago Bridge & Iron Co., and its vendors located at Houston, TX to points in AL, AR, LA, MS, NM, and OK from points in AL, AR, LA, MS, NM, and OK, to the facilities of Chicago Bridge & Iron Co., located at Houston, TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Chicago Bridge & Iron Co., P.O. Box 40066, Houston, TX 77040. Send protests to: District Supervisor John F. Mensing, 8610 Federal Building, 515 Rusk Avenue, Houston, TX 77002.

MC 144697 (Sub-1TA), filed August 17, 1978. Applicant: GIBCO MOTOR EXPRESS, INC., 3405 North 33d Street, Terre Haute, IN 47805. Representative: Norman R. Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, from Clay and Dubois Counties, IN, to Cook, Crawford, Grundy, St. Clair, and Will Counties, IL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): (1) Tower Fuel Co., 540 Frontage Road, P.O. Box 422, Northfield, IL 60093; (2) P-V Corp., R.R. 1, Ferdinand, IN 47532. Send protests to: Beverly J. Williams, Transportation Assistant, Interstate Commerce Commission, Federal Building, and U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, IN 46204.

MC 145227TA, filed August 17, 1978. Applicant: ROGERS TRANSPORTATION CO., INC., 1316 South Blount Street, Raleigh, NC 27611. Representative: David H. Permar, P.O. Box 527, 327 Hillsborough Street, Raleigh, NC 27602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, (in bulk, in tank trucks), from pipeline terminals or port facilities at or near Wilmington, Morehead City, and Selma, NC, to points in Horry, Dillon, Marlboro, and Spartanburg Counties, SC, under a continuing contract, or contracts, with Rogers Oil Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Rogers Oil Co., 1316 South Blount Street, Raleigh, NC 27611. Send protests to: Archie W. Andrews, District Supervisor, Interstate Commerce Commission, 624 Federal Building, 310 New Bern Avenue, P.O. Box 26896, Raleigh, NC 27611.

MC 145230 (Sub-1TA), filed August 18, 1978. Applicant: H & S TRUCKING, INC., P.O. Box 127, Wesson, MS 39191. Representative: Robert J. Gill, 29 S. La Salle Street, Chicago, IL 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in, or used by, a manufacturer of lawn and snow removal products, (except commodities in bulk), between the facilities of Jacobsen Manufacturing Co., at Brookhaven, MS, on the one hand, and, on the other, all points in the United States, (except AK and HI), under a continuing contract, or contracts, with Jacobsen Manufacturing Co., for 180 days. Supporting shipper: Jacobsen Manufacturing Co., P.O. Box 568, Brookhaven, MS 39601. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Room 212, 145 East Amite Building, Jackson, MS 39201.

MC 145237 (Sub-1TA), filed August 18, 1978. Applicant: SCOTT TRUCK LINE, INC., 5280 Newport Street, Commerce City, CO 80022. Representative: Edward A. O'Donnell, 1004 29th Street, Sioux City, IA 51104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic or rubber film or sheeting*, from points in MA and NJ to Denver, CO, under a continuing contract or contracts with Watersaver Co., Inc., Denver, CO, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Watersaver Company, Inc., P.O. Box 16465, Denver, CO 80216. Send protests to: Roger L. Buchanan, District Supervisor, Interstate Commerce Commission, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 145242 (Sub-1TA), filed August 18, 1978. Applicant: CASE HEAVY HAULING, INC., P.O. Box 1156, Huntington, WV 25714. Representative: Paul Beery, 275 E. State Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel, and iron and steel articles*, from Huntington, WV, to points in IN, IL, and NC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: (1) Connor's Steel Division, 17th Street and Second Avenue, Huntington, WV. (2) Martin Steel, Inc., P.O. Box 7994, Huntington, WV. Send protests to: Interstate Commerce Commission, 731 Federal Bldg., 1240 East Ninth Street, Cleveland, OH 44199.

MC 145246TA, filed August 17, 1978. Applicant: A. E. SCHULTZ CORP., 901 Lyndale Avenue, Neenah, WI 54956. Representative: Frank M. Coyne, 25 W. Main Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rough castings*, from Waupaca, WI, to Cedar Rapids, IA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Waupaca Foundry, Inc., Waupaca, WI. 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 145247 (TA), filed August 17, 1978. Applicant: HERSCHEL T. LAMB, d.b.a. CAROLINA SOUTHERN, 2816 South Stratford Road, Winston-Salem, NC 27103. Representative: Francis J. Ortman, 710 Wisconsin Avenue, Suite 605, Washington, DC 20014. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meat, meat products, and meat byproducts*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 MCC 209 and 766 (except commodities in bulk), seafood, fruit, vegetables, and foodstuffs, from Washington, DC, to points in GA and FL; and (2) *Meat, meat products, and meat byproducts*, as described in section A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 MCC 209 and 766 (except commodities in bulk), from the facilities of Max Bauer Meat Packer, Inc., at or near Miami, FL, to Washington, DC, under a continuing contract, or contracts, with District Hotel Supply Co., Inc., for 180 days. Applicant has also filed an underlying ETA Seeking up to 90 days of operating authority. Supporting shipper: District Hotel Supply Co., Inc., 300 E Street, SW., Washington, DC 20024. Send protests to: Terrell Price, District Supervisor, 800 Briar Creek Road, Room CC516, Mart Office Building, Charlotte, NC 28205.

MC 145249 (TA), filed August 18, 1978. Applicant: L. D. BRINKMAN TRUCKING CORP., 520 North Wildwood, Irving, TX 75060. Representative: Lawrence A. Winkle, Winkle & Wells, Suite 1125, Exchange Park, P.O. Box 45538, Dallas, TX 75245. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Floor coverings and materials and supplies* used in the installation of floor coverings, (1) from points in NJ, PA, GA, CA, and MS, to points in TX, OK, AR, LA, MS, MO, CO, UT, AZ, KS, NM, and TN; and (2) between points in TX, OK, AR, LA, MS, KS, MO, CO, UT, AZ, TN, NM, and CA, under a continuing contract, or contracts, with L. D. Brinkman & Co., Inc., for 180 days. Supporting shipper: L. D. Brinkman & Co., Inc., 520 North Wildwood, Irving, TX 75060. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 145254 (TA), filed August 18, 1978. Applicant: BOATNER'S TRUCKING CO., INC., Route 1, Benton, MS 39039. Representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from Yazoo County, MS, to points in AL, AR, FL, GA, LA, MO, NE, NC, SC, TN, and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Burley Smith Lumber Co., Yazoo City 8, MS 39194; (2) McGraw-Curran Lumber Co., P.O. Box 450, Yazoo City, MS 39194. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Room 212, 145 East Amite Building, Jackson, MS 39201.

MC 145289 (TA), filed August 15, 1978. Applicant: LARRY SWIFT d.b.a. LARRY SWIFT TRUCKING, P.O. Box 303, Philip, SD 57567. Representative: Larry Swift (same as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles*, (2) *iron and steel*, (1) from Philip, SD to Minneapolis and St. Paul, MN, (2) from Minneapolis and St. Paul, MN, Sioux City, IA to Philip, SD, under a continuing contract or contracts with Little Scotchman Industries, Inc., for 180 days. Supporting shipper: Little Scotchman Industries, Inc., P.O. Box "F", Philip, SD 57567. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 455, Federal Building, Pierre, SD 57501.

PASSENGER CARRIER

MC 145248 (TA), filed August 17, 1978. Applicant: AIR NEW MEXICO, INC., d.b.a. LAS CRUCES/EL PASO AIRPORT STAGE LINE, 9531 Dyer Street, El Paso, TX 79924. Representative: Lewis Conner, 10560 Janway Street, El Paso, TX 79925. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and baggage of passengers* on a scheduled and charter basis, from El Paso International Airport, El Paso, TX, via Interstate Hwy 10 to Holiday Inn de Las Cruces, Las Cruces, NM, and return, for 180 days. Supporting shipper: Todd Travel, P.O. Drawer 1480, Las Cruces, NM 88001. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box F-13206, Federal Building, Amarillo, TX 79101.

By the Commission.

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

[FR Doc. 78-29042 Filed 10-12-78; 8:45 am]

[7035-01-M]

[Notice No. 188]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

OCTOBER 2, 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 idenfify 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, Intersate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

MC 2392 (Sub-115 TA), filed August 3, 1978. Applicant: WHEELER TRANSPORT SERVICE, INC., 7722 F Street, P.O. Box 14248, West Omaha

Station, Omaha, NE 68124. Representative: Keith D. Wheeler (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, from the facilities of Chevron Chemical Co. near Friend, KS to CO, NE, OK, TX, and WY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Jonah Pollack, Traffic Representative, Chevron Chemical Co., 3001 LBJ Freeway, Suite 130, Dallas, TX 75234. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 5623 (Sub-41 TA), filed August 3, 1978. Applicant: ARROW TRUCKING CO., P.O. Box 7280, Tulsa, OK 74105. Representative: J. G. Dail, Jr., P.O. Box 567, McLean, VA 22010. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and byproducts, and machinery, materials, equipment, and supplies used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof; and (2) *Earth-drilling machinery and equipment, materials, supplies, and pipe incidental* to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells; (A) between points in CT, DE, FL, GA, ME, MD, MA, NH, NJ, NY, NC, RI, SC, VA; and (B) between points named in (A) above, on the one hand, and, on the other, points in AR, CO, IL, IN, KS, KY, LA, MI, MS, MO, MT, NE, NM, OH, OK, PA, TX, UT, VT, WV, and WY, for 180 days. Supporting shippers: There are approximately 37 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Connie Stanley, Transportation Assistant, Room 240 Old Post Office and Courthouse Building, 215 Northwest Third, Oklahoma City, OK 73102.

MC 35890 (Sub-49TA), filed August 11, 1978. Applicant: BOLDGETT FURNITURE SERVICE, INC., 5650 Foremost Drive, P.O. Box 880, Grand Rapids, MI 49508. Representive: Ronald C. Nesmith, Law Department, Allied Van Lines, Inc., P.O. Box 4403, Chicago, IL 60680. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Expanded plastic and expanded plastic articles* from the plantsite of E. I. du Pont de Nemours & Co., in or near Wurtland, KY to points in CT, DE, IL, MD, MA, MI, NJ, NY, PA, RI, and WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: E. I. du Pont de Nemours & Co., 10th and Market Street, Wilmington, DE 19898. Send protests to: C. R. Flemming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 225 Federal Building, Lansing, MI 48933.

MC 37896 (Sub-27TA), filed August 3, 1978. Applicant: YOUNGBLOOD TRUCK LINES, INC., Highway 25, P.O. Box 38, Fletcher, NC 28732. Representative: Charles Ephraim, 1250 Connecticut Avenue NW., Suite 600, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Stoves and stove parts* from the facilities of Bort Manufacturing Co. at Charlotte, NC, to 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: Bart Manufacturing Co., 5019 Hovis Road, Charlotte, NC 28208. Send protests to: Terrell Price, District Supervisor, 800 Briar Creek Road, Room CC516, Mart Office Building, Charlotte, NC 28205.

MC 40270 (Sub-13TA), filed August 11, 1978. Applicant: CRABBS TRANSPORT, INC., P.O. Box 3486, Enid, Oklahoma 73701. Representative: Rufus H. Lawson, 106 Bixler Building, 2400 Northwest 23d Street, Oklahoma City, OK 73107. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Salt and salt products, on pallets and return of empty pallets*, from Lyons, KS, to points in Oklahoma, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: American Salt Co., 3142 Broadway, Kansas City, MO 64111. Send protests to: Connie Stanley, Transportation Assitant, Room 240 Old Post Office and Court House Building, 215 Northwest Third Street, Oklahoma City, OK.

MC 61396 (Sub-353), filed August 3, 1978. Applicant: HERMAN BROTHERS, INC., 2565 St. Mary's Avenue, P.O. Box 189, Omaha, NE 68101. Representative: John E. Smith, II (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied petroleum gas*, in bulk, in tank vehicles, from the facilities of the Cochin Pipeline Co. (1) at or near Mankato and Benson, MN to points in SD, ND, IA and WI) (2) at or near Carrington, ND, to points in SD and MN; (3) at or near New Hampton, IA, to points in WI and WN, for 180 days. Supporting shippers: Glenn D. Carlson, Director of Traffic and transportation, Northern Propane Gas Co., 4820 Excelsior Boulevard; Elmer Brenna, Supervisor, Traffic-Petroleum Division, Farmers Union Central Exchange (CENEX), P.O. Box 43089, St. Paul, MN 55164. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 72069 (Sub-14TA), filed July 28, 1978. Applicant: BLUE HEN LINES, INC., P.O. Box 280, Milford, DE 19963. Representative: Chester A. Zyblut, Esq., 1030 15th Street NW., Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, from Sussex County, DE, to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT and WA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Mr. Paul Caras, Vice President, Sales, Jenkins Foods Corp., P.O. Box 263, Charles Street, Milford, DE 19963. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, 1025 Federal Building, Baltimore, MD 21201.

MC 107906 (Sub-37TA), filed August 3, 1978. Applicant: TRANSPORT MOTOR EXPRESS, INC., P.O. Box 958, Meyer Road, Fort Wayne, IN 46801. Representative: James Eber, P.O. Box 958, Fort Wayne, IN 46801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Stainless steel ingots and billets*, in shipper-owned trailers between Fort Wayne, IN and Corry, PA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Joslyn Stainless Steel, 2400 Taylor Street, Fort Wayne, IN 46804. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

MC 109725 (Sub-10TA), filed August 3, 1978. Applicant: K. F. CROCKER TRANSPORTATION CO., INC., Jewell Hill Road, Ashby, MA 01431.

Representative: James M. Burns, Johnson's Bookstore Building, 1383 Main Street, Suite 413, Springfield, MA 01103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Molasses and liquid feed supplements*, in bulk, in tank vehicles, from Brooklyn, NY and Albany, NY to points in NH, ME, VT, CT, and RI; for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Ingredient Technology Corp., 120 Wall Street, New York, NY 10005; Westway Trading Corp., 464 Hudson Terrace, Englewood Cliffs, NJ 07632. Send protests to: John B. Thomas, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 112617 (Sub-403TA), filed July 28, 1978. Applicant: LIQUID TRANSPORTERS, INC. (KY CORP.), 1292 Fern Valley Road, P.O. Box 21395, Louisville, KY 40221. Representative: Charles R. Dunford, Vice President, Traffic (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied petroleum gas*, from Ashland Oil, Inc., refineries at or near Catlettsburg, KY, to Ashland Oil, Inc. refinery at Canton, OH, for 180 days. Supporting shipper: Mr. Emil M. Sturzenegger, Traffic Manager, Ashland Petroleum Co., P.O. Box 391, Ashland, KY 41101. Send protests to: Mrs. Linda H. Sypher, District Supervisor, Interstate Commerce Commission, 426 Post Office Building, Louisville, KY 40202.

MC 112750 (Sub-346TA), filed August 3, 1978. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, NY 11040. Representative: Elizabeth L. Henoch (same as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Commercial papers, documents and written instruments* (except currency and negotiable securities) as are used in the business of banks and banking institutions, (a) between Louisville, KY, on the one hand, and, on the other, points in IN, OH (on and south of Interstate Hwy 70) and TN (on and east of TN Hwy 13), (b) between points in MO, on traffic having an immediately prior or subsequent movement by air, (c) between points in AR, on traffic having an immediately prior or subsequent movement by air, (d) between points in IL, on traffic having an immediately prior or subsequent movement by air, (e) between Memphis, TN, on the one hand, and, on the other, points in TN (on and west of TN State Hwy 13) and points in Greene, Craighead, MS, Pointsett, Crittenden, St. Francis and Phillips Counties, AR, on traffic having an immediately prior or subsequent movement by air, (f) between points in OH (on and north of Interstate Hwy 70) on traffic having an immediately prior or subsequent movement by air, (g) between St. Louis, MO, on the one hand, and, on the other, points in IL (on and south of U.S. Hwy 36) on traffic having an immediately prior or subsequent movement by air, for 90 days. Applicant has filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Federal Intermediate Credit Bank, 210 West Main Street, Louisville, KY 40202. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10007.

MC 112822 (Sub-461), filed August 11, 1978. Applicant: BRAY LINES INC., 1401 North Little Street, P.O. Box 1191, Cushing, OK 74023. Representative: Dudley G. Sherrill, 1401 North Little Street, Cushing, OK 74023. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages*, except commodities in bulk, in tank vehicles, and related advertising materials, and (2) *empty returns*, from (1) Jefferson County, CO to MO and (2) from MO to Jefferson County, CO, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Adolph Coors Co., Golden, CO 80401. Send protests to: Connie Stanley, Transportation Assistant, Room 240, Old Post Office and Courthouse Building, 215 Northwest Third Street, Oklahoma City, OK 73102.

MC 112989 (Sub-75TA), filed July 28, 1978. Applicant: WEST COAST TRUCK LINES, INC., 85647 Hwy 99 South, Eugene, OR 97405. Representative: John W. White, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Acids; adhesives; tanners' bate; acrylates, alcohols* (other than alcoholic liquors), *chemicals, resin, sodium, zinc; cleaning, scouring or washing compounds, soap; compounds, fuel oil treating, tree or weed killing, water clarifying; deodorants or disinfectants; tanners' depilatory; tanning extracts; feed supplements and feeding compounds; insecticides or fungicides or repellants; paints, stains or varnishes, plasticizers, solvents; petroleum products; plastic materials, other than expanded; plastic or rubber articles; sizing; acid sludge; and textile softeners*, from the facilities of Rohn & Haas Co., located at Hayward, CA to Portland, OR and Seattle, WA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Rohn & Haas Co., Independence Mall West, Philadelphia, PA 19105. Send protests to: District Supervisor, A. E. Odoms, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, 555 Southwest Yamhill Street, Portland, OR 97204.

MC 114273 (Sub-442TA), filed August 3, 1978. Applicant: CRST, INC., P.O. Box 68, 3930 16th Avenue, Cedar Rapids, IA 52406. Representative: Kenneth L. Core, Commerce Attorney (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sausage*, in vehicles equipped with mechanical refrigeration (except in bulk, in tank vehicles), from the facilities of Bob Evans Farms at or near Galva, IL to Zenia, OH, for 180 days. Supporting shipper: Bob Evans Farms, Inc., P.O. Box 44, Zenia, OH 45385. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

MC 114632 (Sub-178TA), filed July 28, 1978. Applicant: APPLE LINES, INC., 212 Southwest Second Street, P.O. Box 287, Madison, SD 57042. Representative: Michael L. Carter (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts, and articles distrubuted by meat packinghouses* (except commodities in bulk), from the facilities of Oscar Mayer & Co. at Perry, IA and Des Moines, IA to all points in Cook, Will, Dupage, Kane, and Lake Counties, IL; Madison, WI and Jefferson, WI, for 180 days. Supporting shipper: Oscar Mayer & Co., Inc., 910 Mayer Avenue, Madison, WI 53704 (Joseph R. Dixon, Distribution Planning Manager). Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 455, Federal Building, Pierre, SD 57501.

MC 117589 (Sub-52TA), filed July 28, 1978. Applicant: PROVISIONERS FROZEN EXPRESS, INC., 3801 Seventh Avenue South, Seattle, WA 98108. Representative: Michael D. Duppenthaler, 515 Lyon Building, 607 Third Avenue, Seattle, WA 98104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Inedible packinghouse products, fresh or frozen, unfit for human consumption*, in vehicles equipped with mechanical refrigeration (except in bulk, in tank vehicles): (1) From Fort Morgan and Sterling, CO to Forest Grove and Tualatin, OR; (2) from Sterling, CO to Midvale,

UT, for 180 days. Supporting shipper: Landers & Sowers, Inc., P.O. Box 21134, North Pecos Branch, Denver, CO 80221. Send protests to: Hugh H. Chaffee, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 858 Federal Building, Seattle, WA 98174.

MC 118142 (Sub-182TA), filed August 11, 1978. Applicant: M. BRUENGER & CO., INC., 6250 North Broadway, Wichita, KS 67219. Representative: Lester C. Arvin, 814 Century Plaza Building, Wichita, KS 67202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Processed meat* from the facilities of Urban N. Patman Meat Co., Inc. at or near Los Angeles, CA, to Florence, KY, for 180 days. Supporting shipper: Urban N. Patman Meat Co., Inc., 2638 East Vernon, Los Angeles, CA 90058. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin Building, Wichita, KS 67202.

MC 118560 (Sub-7TA), filed August 3, 1978. Applicant: GENERAL TRUCKING CO., INC., 110 School Street, Columbia, TN 38401. Representative: Edward C. Blank, II, P.O. Box 1004, Middle Tennessee Bank Building, Columbia, TN 38401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Silica gravel and silica sand* from the plant site of Southern Stone Co., Inc., Elmore County, AL, to Hooker Chemicals & Plastics Corp. plant in Maury County, TN, for 180 days. Restriction: Restricted to transportation of commodities listed in dump trucks and dump trailers, and further restricted to traffic originating at the above named location and destined to the above named destination point. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Southern Stone Co., Inc., 2111 Eighth Avenue South, Birmingham, AL 35233. 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 123407 (Sub-485), filed August 3, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: H. E. Miller, Jr. (same address as applicant). Authority granted to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles, and iron and steel articles (galvanized or painted)*, (1) From Chicago, IL; Wilmington, DE; Canonsburg, PA; Jersey City, NJ; New Orleans; Camden NJ; Savannah, Ga; and Houston, TX; to points in the United States in and east of ND, SD, NE, CO, and AZ; and (2) From Los Angeles, CA, to points in CA, NM, AZ, and CO, for 180 days. Supporting shipper: North Pacific Lumber Co., P.O. Box 3915, Portland, OR 97208. Send protests to: Lois Stahl, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, Room 1386, 219 South Dearborn Street, Chicago, IL 60604.

MC 123744 (Sub-42TA), filed July 28, 1978. Applicant: BUTLER TRUCKING CO. (PA corporation), P.O. Box 88, Woodland, PA 16881. Representative: E. Steward Butler (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Refractories*, from Farber, MO to points in OH, PA, WV, MD, NY, and Ashland KY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: North American Refractories Co., 900 Hanna Building, East 14th & Euclid Avenue, Cleveland, OH 44115. Send protests to: John J. England, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

MC 124078 (Sub-844TA), filed July 27, 1978. Applicant: SCHWERMAN TRUCKING CO., 611 South 28 Street, P.O. Box 1601, Milwaukee, WI 53215. Representative: Richard H. Prevette (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, in bulk, in tank vehicles, from West Des Moines, IA, to Latrobe, PA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Penn-Dixie, Industries, Inc., Cement Division, P.O. Box 152, Nazareth, PA 18064 (David L. Williams). 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 124154 (Sub-69TA), filed August 11, 1978. Applicant: WINGATE TRUCKING CO., INC., 10042 First Avenue, P.O. Box 645, Albany, GA 31702. Representative: Slo H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Galecron* from Fresno and Los Angeles, CA; Cockeysville, MD; Bayonne, NJ; Cincinnati, OH; Milwaukee, OR; and Waco, TX, to St. Gabriels, LA, and (2) *Weed killing compounds* from St. Gabriels, LA; Mobile, McIntosh, and Birmingham, AL, to Fresno and Los Angeles, CA, Cockeysville, MD; Bayonne, NJ; Cincinnati, OH; Milwaukee, OR; and Waco, TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: CIBA-Geigy Corp., Saw Mill River Road, Ardsley, NY 10502. Send protests to: District Supervisor G. H. Fauss, Jr., ICC Bureau of Operations, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 124230 (Sub-36TA), filed July 27, 1978. Applicant: C. B. JOHNSON, INC. (a CO corporation), P.O. Drawer S, Cortez, CO 81321. Representative: David E. Driggers, Suite 1600 Lincoln Center, 1660 Lincoln Street, Denver, CO 80264. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ore and ore concentrates*, in bulk, from points in Lake County, CO, to Pueblo, Denver, and Canon City, CO, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: ASARCO, Inc., 405 Montgomery Street, San Francisco, CA 94104. Send protests to: Herbert C. Ruoff, District Supervisor, Interstate Commerce Commission, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 124692 (Sub-231TA), filed August 11, 1978. Applicant: SAMMONS TRUCKING, P.O. Box 4347, Missoula, MT 59806. Representative: James B. Hovland, P.O. Box 1680, 414 Gate City Building, Fargo, ND 58102. aughority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles* from the facilities of Cascade Steel Rolling Mills at or near McMinnville, OR to points in CA, for 180 days. Applicant has also filed an undferlying ETA seeking up to 90 days of operating authority. Supporting shipper: Norman L. Van Camp, V. P., Amador Steel Corp., 5157 McGraw Road, Livermore, CA 94550. Neil Strand, Shipping superintendent, Cascade Steel Rolling Mills Inc., 3200 North Highway 99W, McMinnville, OR 97128. Send portests to: D/S Paul J. Labane, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 124711 (Sub-59TA), filed July 28, 1978. Applicant: BECKER CORP., P.O. Box 1050, El Dorado, KS 67042. Representative: T. M. Brown, 223 Ciudad Building, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, from facilities of Chevron Chemical Co. near Friend, KS, to points in CO, NE, OK, TX, and WY, for 180 days. Applicant has also filed an underlying ETA seek-

ing up to 90 days of operating authority. Supporting shipper: Chevron Chemical Co., 3001 LBJ Freeway, No. 130, Dallas, TX 75234. Send protests to: M.E. Taylor, District supervisor, Interstate Commerce Commission, 101 Litwin Building, Wichita, KS 67202.

MC 124813 (Sub-187TA), filed July 28, 1978. Applicant: UMTHUN TRUCKING CO. (IA corporation), 910 South Jackson Street, P.O. Box 166, Eagle Grove, IA 50533. Representative: James M. Hodge, 1980 financial Center, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Railroad ties* from points in Linn, Buchanan, and Fayette Counties, IA to points in Milwaukee and Waukesha Counties, WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Dieleman Construction & Industrial Salvage Co., R.R. No. 1, Kellogg, IA 50135. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

MC 126118 (Sub-85TA), filed July 27, 1978. Applicant: CRETE CARRIER CORP., P.O. Box 81228, Lincoln, NE 68501. Representative: Duane W. Acklie (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Self-propelled vehicles under 5,000 pounds, mowers, turf spikers, chemical injectors, rakes, seeders, spreaders, sod cutters, trailers, accessories, attachments and parts*, from Lincoln, NE, to points in the United States (except AK, HI, and NE), and (2) *materials, equipment, supplies, and parts* used in the manufacture of the commodities in (1) above, from points in the United States (except AK, HI, and NE), to Lincoln, NE, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Restriction: Restricted in Part (1) to the transportation of traffic destined to the facilities of OMC-Lincoln, Division of Outboard Marine Corp., and in Part (2), restricted to the transportation of traffic originating at the facilities of OMC-Lincoln, Division of Outboard Marine Corp., at Lincoln, NE. Supporting shipper: Harold E. Wright, Traffic Manager, OMC-Lincoln, Division of Outboard Marine Corp., 900 North 21st Street, Lincoln, NE 68501. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building and Court House, 100 Centennial Mall North, Lincoln, NE 68508.

NOTE.—Common control may be involved.

MC 126118 (Sub-86TA), filed July 28, 1978. Applicant: CRETE CARRIER CORP., P.O. Box 81228, Lincoln, NE 68501. Representative: Duane W. Acklie (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Those commodities used by and dealt in by retail and wholesale institutional suppliers including plastic articles* (except in bulk), from points in CA and Salem, OR, and Othello, WA, and their commercial zones to Lincoln, NE, and its commercial zone, (2) *Cleaning compounds, cleaning products, including detergent controllers, detergent reservoirs, control meters, and injectors, and food products*, including in mixed shipments, from Wyandotte and Coloma, MI, Iowa City and Muscatine, IA, St. Louis, MO, and their commercial zones, to Lincoln, NE, and its commercial zone, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Robert P. Howe, Purchasing Agent, Pegler & Co., 1700 Center Park Road, Lincoln, NE 68501. Glenn Schnieber, President and General Manager, Schnieber Fine Foods, 2400 North 27th Street, Lincoln, NE 68503. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building and Court House, 100 Centennial Mall North, Lincoln, NE 68508.

NOTE.—Common control may be involved.

MC 126118 (Sub-87TA), filed July 28, 1978. Applicant: CRETE CARRIER CORP., P.O. Box 81228, Lincoln, NE 68501. Representative: Duane W. Acklie (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Clay and clay products*, from the plantsite and shipping facilities of Waverly Mineral Products Co., located at or near Meigs, GA, to NE, KS, MO, IA, MN, WI, IL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Lucy E. Tessing, Traffic Manager, Waverly Mineral Products Co., 3018 Market Street, Philadelphia, PA 19106. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building and Court House, 100 Centennial Mall North, Lincoln, NE 68508.

MC 128273 (Sub-314TA), filed August 11, 1978. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, KS 66701. Representative: Elden Corban, P.O. Box 189, Fort Scott, KS 66701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper boxes other than corrugated, knocked down or folded flat* (except commodities in bulk in tank vehicles), from the facilities owned or utilized by Potlatch Corp. at or near Sikeston, MO, to Lemon Grove and San Bernardino, CA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Potlatch Corp., P.O. Box 1016, Lewiston, ID 83501. Send protests to: M.E. Taylor, District Supervisor, Interstate Commerce Commission, 101A Litwin Building, 110 North Market Street, Wichita, KS 67202.

MC 128279 (Sub-33TA), filed August 11, 1978. Applicant: ARROW FREIGHTWAYS, INC., 150 Woodward Road SE, P.O. Box 25125, Albuquerque, NM 87125. Representative: Olif Q. Boyd, President, 150 Woodward Road SE, P.O. Box 25125, Albuquerque, NM 87125. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Commodities requiring the use of special equipment*, except commodities in bulk, between points in AZ, CO, and NM, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately 10 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 field office named below. Send protests to: District Supervisor, Interstate Commerce Commission, 1106 Federal Office Building, 517 Gold Avenue SW, Albuquerque, NM 87101.

MC 133805 (Sub-13TA), filed July 27, 1978. Applicant: LONE STAR CARRIERS, INC. (a Texas corporation), Route 1, P.O. Box 48, Tolar, TX 76476. Representative: Charles W. Beinhauer, One World Trade Center, Suite 4959, New York, NY 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel shot* (not ammunition NOI) from the facilities of Ervin Industries at or near Adrian, MI, and Butler, PA to points in the States of AL, CO, GA, KS, LA, MS, MO, OK, and TX, restricted to traffic originating at the above named facilities and destined to points in the named destination States, for 180 days. Supporting shipper: Ervin Industries, 121 South Division Street, Ann Arbor, MI 48106. Send protests to: Robert J. Kirspel, District Supervisor, Room 9A27 Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

MC 135598 (Sub-14TA), filed August 11, 1978. Applicant: SHARKEY TRANSPORTATION, INC., P.O. Box 3156, Quincy, IL 62301. Representative: Carl L. Steiner, 39 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular

routes, transporting: *Malt beverages,* from St. Louis, MO, and St. Paul, MN, to Burlington, IA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Krohn Distributing Co., Inc., 105 South Roosevelt Avenue, Burlington, IA 52601. Send protests to Harold C. Jolliff, Transportation Specialist, Interstate Commerce Commission, P.O. Box 2418, Springfield, IL 62705.

MC 136635, (Sub-9TA), filed August 10, 1978. Applicant: UNIVERSAL CARTAGE, INC., 640 West Ireland Road, South Bend, IN 46614. Representative: Donald W. Smith, P.O. Box 40659, Indianapolis, IN 46204. Authority sought to operate as a *common carrier,* in interstate commerce in the transportation of *general commodities* (except commodities in bulk, household goods as defined by the Commission, commodities which because of size or weight require the use of special equipment and Class A and B explosives) between points in IN on and north of U.S. Hwy 40 on the one hand and on the other, the rail ramps located at or near Elkhart, IN and Chicago, IL. Restriction: Restricted to traffic having a prior or subsequent movement by rail, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: There are approximately 10 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: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

MC 138144 (Sub-33TA), filed August 3, 1978. Applicant: FRED OLSON CO., INC., 6022 West State Street, Milwaukee, WI 53213. Representative: Elaine M. Conway, 10 South LaSalle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Building and construction materials,* from the plantsite of the Celotex Corp. located at or near Chicago, IL to points in WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Celotex Corp., 1500 North Dale Mabry, Tampa, FL 33607. 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 138732 (Sub-15TA), filed July 27, 1978. Applicant: OSTERKAMP TRUCKING, INC., P.O. Box 5546, Orange, CA 92667. Representative: Michael R. Eggleton, 67 Larkstone Court, Danville, CA 94526. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Lumber, lumber products, plywood, particleboard and wood products,* from points in OR to points in CA from Carson City, Churchill, Douglas, Lyon, Mineral, Storey, and Washoe Counties, NV, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: There are approximately 4 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 field office named below. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 138762 (Sub-25TA), filed August 11, 1978. Applicant: MUNICIPAL TANK LINES LTD., P.O. Box 3500, Calgary, AB, Canada T2P 2P9. Representative: Richard H. Streeter, 1729 H Street NW., Washington, DC 20006. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Liquid asphalt products, in bulk,* in tank vehicles, from ports of entry on the International Boundary line between the United States and Canada located at or near Buffalo, NY to points in NY, restricted to traffic in foreign commerce, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: M.L. Donofrio, Mgr. Special Projects, McAsphalt Industries, Ltd., P.O. Box 247, Westhill, ON, Canada. Send protests to: D/S Paul J. Labane, ICC, 2602 First Avenue, North, Billings, MT 59101.

MC 139349 (Sub-7TA), filed August 11, 1978. Applicant: E Z FREIGHT LINES, 348 Ocean Avenue, Jersey City, NJ 07305. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Lighting fixtures, and lamps, and equipment, materials and supplies used in the manufacture and sale, except in bulk,* between Elgin, IL, and Warren, OH, on the one hand, and, on the other, LA, MN, and TX, and points in the United States east of the Mississippi River for 180 days. Condition: Authority is limited to service rendered under contract or continuing contracts with Lightolier, Inc., and Duro-Test Corp. Supporting shippers: Lightolier, Inc., 346 Clairmont Avenue, Jersey City, NJ 07305 and Duro-Test Corp., 2321 Kennedy Boulevard, North Bergen, NJ 07047. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark, NJ 07102.

MC 139543 (Sub-3TA), filed August 14, 1978. Applicant: MOLASSES TRANSPORTERS, INC., P.O. Box 144, Port Allen, LA 70767. Representative: Mr. Edward A. Winter, 235 Rosewood Drive, Metairie, LA 70005. Authority sought to operate as a *contract carrier,* by motor vehicle over irregular routes, transporting: *Asphalt and asphalt products in bulk* from the facilities of Exxon Co., U.S.A., located at or near Baton Rouge, LA to Mobile, AL, under a continuing contract or contracts with Exxon Co., U.S.A., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Exxon Co., U.S.A., P.O. Box 2180, Houston, TX 77001, GAF Corp., 1316 Alps Road, Wayne, NJ 07470. Send protests to: Connie A. Guillory, Interstate Commerce Commission, T-9038, U.S. Postal Service Building, 701 Loyola Avenue, New Orleans, LA 70113.

MC 141252 (Sub-3TA), filed August 11, 1978. Applicant: PAN WESTERN CORP., 4105 Las Lomas Avenue, Las Vegas, NV 89102. Representative: Robert G. Harrison, 4299 James Drive Carson City, NV 89701. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: 1. *Hot and cold steel in coils* from the facilities of Kaiser Steel at Montebello, CA and Fontana, CA. 2. *Precut steel plates* (blanks) from the facilities of Kaiser Steel at Montebello, CA and from the facilities of National Steel at Torrance, CA. 3. *Frit* (glass lining material) from the facilities of Ferro Corp. at Los Angeles and Long Beach Harbor CA. 4. *Hot and cold rolled steel in coils* from the docks at Long Beach Harbor, CA (No. 4 restricted to shipments having an immediately prior movement in foreign commerce) to Henderson, NV, for 180 days. Supporting shipper: State Industries, Inc., Lake Mead, NV 89015. Send protests to: Interstate Commerce Commission, District Supervisor W. J. Huetig, 203 Federal Bldg., 705 North Plaza Street, Carson City, NV 89701.

MC 141804 (Sub-123TA), filed August 11, 1978. Applicant: WESTERN EXPRESS, Division of Interstate Rental, Inc., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman, P.O. Box 3488, Ontario, CA 91761. Authority sought to operate as a *common carrier,* by motor vehicle over irregular routes, transporting: *Paper labels, gummed paper, corrugated boxes and materials, parts and ac-*

cessories used in the manufacture of paper labels and gummed paper, from the facilities of Avery Label at or near Flowery Branch, GA, to the facilities of Avery Label at or near Azusa and Monrovia, CA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Avery Label, 777 East Foothill Boulevard, Azusa, CA 91702. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321, Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 143775 (Sub-16TA), filed August 11, 1978. Applicant: PAUL YATES INC., 6601 West Orangwood, Glendale, AZ 85301. Representative: Edward N. Button, 1329 Pennsylvania Avenue, Hagerstown, MD 21740. Authority sought to operate as a *common carrier,* by motor vehicle over irregular routes, transporting: *Hair care toiletries, and hair care accessories, and equipment, materials, supplies, and ingredients used in the packaging, manufacturing and distribution of toiletry equipment* (except in bulk) in temperature controlled vehicles. From Cheshire and Milford, CT; Garden City, NY; Saddlebrook and Lakewood, NJ; Walpole, NH; and their respective commercial zones, to Chicago, IL; Atlanta, GA; Stamford, CT; Dallas, TX; LaMirada, CA; Portland, OR; and their respective commercial zones, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Clairol Inc. One Blachley Road, Stamford, CT 06902. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Room 2020, Federal Building 230 North First Avenue, Phoenix, AZ 85025.

MC 144929 (Sub-1TA), filed August 11, 1978. Applicant: B & J TRUCKING, INC., Frontage Road, Route 3, Piedmont, SC 29673. Representative: Brian S. Stern, 2425 Wilson Boulevard, No. 327, Arlington, VA 22201. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: (1) *Textiles* (a) from the facilities of Monsanto Co. at Decatur and Sand Mountain (near Guntersville), AL, Greenwood and Blacksburg, SC, and Gonzalez, FL. (b) from the facilities of Monsanto, North Carolina, Inc., a wholly owned subsidiary of Monsanto Co. at Fayetteville, NC (c) from the facilities of Fovil Manufacturing Co., Inc., a wholly owned subsidiary of Monsanto Co., at Foley, AL, and Abbeville, SC, and (d) from the facilities utilized by Monsanto Co. at Huntsville, AL, to points in CA, NM, OR, TX, and WA; (2) *adipic acid* (except in bulk), from the facilities of Monsanto Co. at Gonzalez, and Pensacola FL, to Los Angeles and Santa Clara, CA, and points in the San Francisco and Oakland, CA commercial zones; (3) *resin plasticizers* (except in bulk), shipped by Monsanto Co. from Inman, SC, to Los Angeles, CA; (4) *insecticides* and *resin plasicizers* (except in bulk), from the facilities of Monsanto Co at Anniston, AL, to Los Angeles, CA; (5) *Bleach assistant compounds* (except in bulk), from the facilities of Monsanto, Co. at Luling, LA, to Los Angeles and Santa Clara, CA, and points in the San Francisco and Oakland, CA, commercial zones; and (6) *food preserving compounds* (except in bulk), from the facilities of Monsanto Co. at Texas City and Chocolate Bayou, TX, to Los Angeles and Santa Clara, CA, and points in the San Francisco and Oakland, CA, commercial zones, restricted in (1) through (6), above, to a transportation service performed under a continuing contract or contracts with Monsanto Co., of St. Louis, MO, for 180 days. Supporting shipper: Monsanto Co., 800 North Lindbergh Boulevard, St. Louis, MO 63166. Send protests to: E. E. Strotheid, District Supervisor, ICC, Room 302, 1400 Building Columbia, SC 29201.

MC 145006 (Sub-1TA), filed August 11, 1978. Applicant: WESTERN BATTERY TRUCKING, 32 East 1300 South, Salt Lake City, UT 84115. Representative: Lorin S. Miller, 32 East 1300 South, Salt Lake City, UT 84115. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *New and used automotive and industrial batteries,* between points in Fullerton, Visalia and Commerce, CA; Salt Lake City, UT; and Missoula, MT, for 180 days. Supporting shipper: Western Battery & Electric Co., 32 East 1300 South, Salt Lake City, UT 84115 (Lorin S. Miller, president/owner). Send protest to: District Supervisor L. D. Helfer, Interstate Commerce Commission, 5301 Federal Building, Salt Lake City, UT 84138.

MC 145111 (Sub-1TA), filed August 11, 1978. Applicant: MORRIS D. HAMMOND, d.b.a. MORRIS CAB CO., Route 4, Trenton, MO 64683. Representative: Thomas O. Pickett, 924 Main Street, P.O. Box 71, Trenton, MO 64683. Authority sought to operate as a *common carrier,* by motor vehicle over irregular routes, transporting: *Personnel for Rock Island and Milwaukee Railroads,* from all points between Trenton, MO; Eldon, IA; Ottumwa, IA; and Des Moines, IA, for 180 days. Applicant has also filed an undrlying ETA seeking up to 90 days of operating authority. Supporting shipper: Chicago, Rock Island & Pacific Railroad, Rock Island, Depot, Trenton, MO 64683. Send protests to: Vernon V. Coble, D/S, Interstate Commerce Commission 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

MC 145135 (Sub-1TA), filed August 11, 1978. Applicant: JOHN E. DILLON, T/A, DILLON TRUCKING CO., P.O. Box 144, Farmville, VA 23901. Representative: Carroll B. Jackson, 1810 Vencennes Road, Richmond, VA 23229. Authority sought to operate as a *common carrier,* by motor vehicle over irregular routes, transporting: *Buildings, knocked down: Parts: Attachments: and materials and supplies when moving with buildings.* From the site of Traditional Log Homes, Inc., at or near State Road (Surry Ct.) NC, to points in CD, KY, MD, OH, SC, IN, VA, and WV, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Traditional Log Homes, Inc., Route 2, Box 198, State Road, NC 28676. Send protests to: District Supervisor Paul D. Collins, Bureau of Operations, Room 10-502, Federal Building, 400 North 8th Street, Richmond, VA 23240.

MC 145173TA, filed August 11, 1978. Applicant: BELDON LAMBIRTH, JR., d.b.a. L. & S. TRANSPORTATION, P.O. Box 31534, Billings, MT 59104. Representative: Jeff Essman, 500 Midland Bank Building, 303 North Broadway, Billings, MT 59101. Authority sought to operate as a *common carrier,* by motor vehicle over irregular routes, transporting: *Bentonite* (except in bulk) from Crook, Weston, Natrona, Washakie, and Big Horn Counties, WY to Sacramento, Yolo, Kern, Colusa, Ventura, Los Angeles, Humbolt Mendocino, Lake, Sonoma, Contra Costa, Monterey, Tehama, Fresno, Glenn and Kings Counties, CA, for 180 days. Supporting shippers: Bill New, president, Northern Mud Sales & Service Co., Inc., 3400 Patton's Way, P.O. Box 665, Bakersfield, CA 93308. Pete Smith, Chief, Mud Inc., 6205 Dennen Street, Bakersfield, CA 93307. John R. Farrow, Gen., Mgr., Calada Materials, 3501 Dock Street, Terminal Island, Long Beach, CA 90731. Send protests to: D/S Paul J. Labane, ICC, 2602 First Avenue, North, Billings, MT 59101.

MC 145174TA, filed August 9, 1978. Applicant: NORTH FORTY LINES, INC., 6700 Driftwood Lane, Missoula, MT 59801. Representative: Bruce K. Meier (same as above). Authority sought to operate as a *contract carrier,* by motor vehicle over irregular routes, transporting: *Precut log and wood buildings, knocked down, and materials and supplies* used in the construction, installation and erection thereof, to include windows and doors, from the facilities of Real Log Homes, Inc., located near Missoula, MT, to all

points in CO, ID, UT, and WY, under a continuing contract or contracts with Real Log Homes, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: John D. Currens, General Manager, Real Log Homes, Inc., Box 8509, Missoula, MT 59807. Send protests to: District Supervisor Paul J. Labane, Interstate Commerce Commission, 2602 First Avenue North, Billings, MT 59101.

MC 145176TA, filed August 11, 1978. Applicant: BRELAR, INC., P.O. Box 796, Greenville, MS 38701. Representative: E. Edward Glasscock, 1600 Citizens Plaza, Louisville, KY 40202. Authority sought to operate as a *contract carrier*, by motor vehicle over irregular routes, transporting: (1) *Foodstuffs* (except frozen and in bulk); and (2) *materials, equipment, and supplies* (except commodities in bulk) used or useful in the manufacture, distribution, and sale of foodstuffs, from points in the United States (except AK, HI, and MS) to the facilities of Vlasic Foods, Inc., at or near Greenville, MS, under a continuing contract or contracts with Vlasic Foods, Inc., for 180 days. Supporting shipper: Vlasic Foods, Inc., 33200 West 14 Mile Road, W. Bloomfield, MI 48033. Send protests to: Alan C. Tarrant, D/S Interstate Commerce Commission, Room 212 145 East Amite Building, Jackson, MS 39201.

PASSENGER CARRIER

MC 145167 (Sub-1TA), filed August 11, 1978. Applicant: CHECKERLLAC TRANSPORTATION, INC., 1612 Forest Avenue, Staten Island, NY 10302. Representative: Robert A. Straniere, Esq., 358 St. Mark's Place, Staten Island, NY 10301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage in special and charter operations, limited to the transportation of not more than 14 passengers in any one vehicle, not including the driver, and not including children under 10 years of age who do not occupy a seat or seats.* Beginning and ending at Staten Island (Richmond County) NY to Atlantic City, NJ, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Fred Stanzione Travel Bureau, 646 Forest Avenue, Staten Island, NY 10301. Riviera Travel, Inc. 62 New Drop Plaza, Staten Island, NY 10305. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10007.

By the Commission.

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

[FR Doc. 78-29043 Filed 10-12-78; 8:45 am]

[7035-01-M]

[Notice No. 192]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

OCTOBER 10, 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, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

W-1308 (Sub-1TA), filed August 17, 1978. Applicant: BLAINE F. CLAYPOOL, d.b.a. RED WING EXCURSIONS, 218 North Franklin Street, Lake City, MN 55041. Representative: Stephen A. Lawrence, Lawrence, Costello & Moratzka, 3154 North Service Drive, Red Wing, MN 55066. On September 29, 1978, the Motor Carrier Board granted authority to applicant to operate as a common carrier, by water vehicle, transporting *passengers and their baggage* in regular, daily, scheduled, sightseeing trips and special charter sightseeing trips between points and ports along the Mississippi River between Hastings and Wabasha, MN, and Prescott, WI on the St. Croix River. Supporting shippers: Seven statements of support attached to the application may be examined at the Interstate Commerce Commission in Washington, DC, or copies of same may be examined at the Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401. Petitions for reconsideration: Any interested party may file a petition for reconsideration within 20 days from the date this notice is published. Such a petition should be sent to the Acting Secretary, Interstate Commerce Commission, Washington, DC 20423.

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

[FR Doc. 78-29044 Filed 10-12-78; 8:45 am]

[7035-01-M]

[Notice No. 115]

OCTOBER 13, 1978.

MOTOR CARRIER TRANSFER PROCEEDINGS

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR 1132:

MC-FC-77776. By application filed September 12, 1978, WILLIAM M. HAZZARD, JR., an individual, d.b.a. ACE DELIVERY SERVICE, 215 Lorewood Avenue, Wilmington, DE 19804, seeks temporary authority to transfer the operation rights of Francis Lenza, an individual, d.b.a. Bern-Mart's Express, 1206 Glenside Avenue, Wilmington, DE 19803, under section 210a(b). The transfer to William M. Hazzard, Jr., an individual, d.b.a. Ace Delivery Service, of the operating rights of Francis Lenza, an individual, d.b.a. Bern-Mart's Express, is presently pending.

MC-FC-77853. By application filed September 28, 1978, SURFACE TRANSPORTATION CO., INC., 125 South, Van Brunt Street, Englewood, NJ 07631, seeks temporary authority to transfer a portion of the operating rights of Lapadula & Villani, Inc., P.O. Box 158, Cedarhurst, NJ 11516, under section 210a(b). The transfer to Surface Transportation Co., Inc., of a portion of the operating rights of Lapadula & Villani, Inc., is presently pending.

MC-FC-77865. by application filed October 3, 1978, ANTHONY D. FIAMINGO, an individual, d.b.a. FIAMINGO MOVING & STORAGE CO.,

R.D. No. 3, Box 678, Mansfield, PA 16933, seeks temporary authority to transfer the operating rights of John F. Murphy, an individual, d.b.a. Murphy Trucking Co., 33 Davenport Street, Hornell, NY 14843, under section 210a(b). The transfer to Anthony D. Fiamingo, an individual, d.b.a. Fiamingo Moving & Storage Co., of the operating rights of John F. Murphy, an individual, d.b.a. Murphy Trucking Co., is presently pending.

MC-FC-77866. by application filed October 5, 1978, MEYER FARMS TRANSPORT, INC., Box 65, Oregon, MO 64473, seeks temporary authority to transfer a portion of the operating rights of Farris Truck Line, box 224, Faucett, MO 64448, under section 210a(b). The transfer to Meyer Farms Transport, Inc., of a portion of the operating rights of Farris Truck Line, is presently pending.

MC-FC-77867. By application filed October 5, 1978, JOHN L. HAWK TRUCKING, INC., 2908 Pear, St. Joseph, MO 45603, seeks temporary authority to transfer a portion of the operating rights of Farris Truck Line, P.O. Box 224, Faucett, MO 64448, under section 210a(b). The transfer to John L. Hawk Trucking, Inc., of a portion of the operating rights of Farris Truck Line, is presently pending.

MC-FC-77868. By application filed October 3, 1978, DONALD J. HOHMAN, an individual, d.b.a. CROSS TRUCKING & STORAGE, 301 Regina Street, Pittsburgh, PA 15209, seeks temporary authority to transfer the operating rights of Darby Transfer, Inc., 535 Forest Avenue, Pittsburgh, PA 15106, under section 210a(b). The transfer to Donald J. Hohman, an individual, d.b.a. Cross Trucking & Storage, of the operating rights of Darby Transfer, Inc., is presently pending.

MC-FC-77869. By application filed September 29, 1978, BARLOW TRUCK LINES, INC., Route 2, Warrensburg, MO 64093, seeks temporary authority to transfer a portion of the operating rights of Farris Truck Line, P.O. Box 224, Faucett, MO 64448, under section 201a(b). The transfer to Barlow Truck Lines, Inc., of a portion of the operating rights of Farris Truck Line, is presently pending.

MC-FC-77870. By application filed September 28, 1978, GOPHER TRUCK LINES, INC., 1931 East 27th Street, Vernon, CA 90058, seeks temporary authority to transfer the operating rights of Service Truck Co., 2163 East 14th Street, Los Angeles, CA 90021, under section 210a(b). The transfer to Gopher Truck Lines, Inc., of the operating rights of Service Truck Co., is presently pending.

By the Commission. 6H. G. Homme, Jr.,

Acting Secretary.

[FR Doc. 78-29040 Filed 10-12-78; 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).

CONTENTS

	Items
Federal Election Commission	1
Federal Maritime Commission	2, 3
Federal Trade Commission	4
Interstate Commerce Commission	5
United States Parole Commission	6
Board for International Broadcasting	7

[6715-01-M]

1

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Wednesday, October 18, 1978, at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Audit Reports, Compliance, Personnel.

* * *

DATE AND TIME: Thursday, October 19, 1978, at 10 a.m.

STATUS: Portions of this meeting will be open to the public and portions will be closed.

MATTERS TO BE CONSIDERED:

Portions open to the public:

Setting of dates for future meetings.
Correction and approval of minutes.
Advisory opinions: AO 1978-74, AO 1978-79.
Computer contract procurement.
Earmarked contributions.
Appropriations and budget.
Presidential campaign disclosure form.
Pending legislation.
Pending litigation.
Liaison with other Federal agencies.
Nonfiler procedures.
Recordkeeping and reporting of particulars for expenditures—Presidential candidates and authorized committees.
Classification actions.
Routine administrative matters.

Portions of the meeting closed to the public:

Any matters not concluded on October 18, 1978.

PERSON TO CONTACT FOR INFORMATION:

Mr. David Fiske, Press Officer, telephone, 202-523-4065.

MARJORIE W. EMMONS,
Secretary to the Commission.

[S-2067-78 Filed 10-11-78; 3:36 pm]

[6730-01-M]

2

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 10 a.m., October 18, 1978.

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Monthly report of actions taken pursuant to authority delegated to the managing director.
2. Agreement No. T-3690 between Matson Terminals, Inc., and Polynesia Line, Ltd., providing for preventive maintenance and container repair services at Oakland and Los Angeles.
3. Docket No. 74-12: Agreement No. 9939-1 (Modification and Extension of a Pooling, Sailing and Equal Access to Government Controlled Cargo Agreement)—Review of Order of Discontinuance.
4. Docket No. 76-10: *Joy Manufacturing Co.* v. *Lykes Bros. Steamship Co., Inc.*—Discussion off the record.
5. Docket Nos. 76-34/76-36: Tariff FMC 6, Rule 22, of the Continental North Atlantic Westbound Freight Conference/Tariff Rules Concertedly Published Defining Practices of Conferences and Rate Agreement Members Regarding the Acceptance and Responsibility for Shipper-Owned or Shipper-Leased Trailers or Containers—Discussion off the record.

CONTACT PERSON FOR MORE INFORMATION:

Francis C. Hurney, Secretary, 202-523-5725.

[S-2063-78 Filed 10-11-78; 11:34 am]

[6730-01-M]

3

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 2:30 p.m., October 18, 1978.

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Closed.

MATTER TO BE CONSIDERED:

1. Interagency Maritime Study.

CONTACT PERSON FOR MORE INFORMATION:

Francis C. Hurney, Secretary, 202-523-5725.

[S-2064-78 Filed 10-11-78; 11:34 am]

[6750-01-M]

4

FEDERAL TRADE COMMISSION.

TIME AND DATE: 2 p.m., Friday, October 20, 1978.

PLACE: Room 532 (open), Room 540 (closed), Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to public:

1. Oral argument in SKF Industries. Docket No. 9046.

Portions closed to the public:

2. Executive Session to discuss oral argument in SKF Industries, Docket No. 9046.

CONTACT PERSON FOR MORE INFORMATION:

Ira J. Furman, Office of Public Information, 202-523-3830. Recorded Message: 202-523-3806.

[S-2066-78 Filed 10-11-78; 1:39 pm]

[7035-01-M]

5

INTERSTATE COMMERCE COMMISSION.

TIME AND DATE: 9:30 a.m., Tuesday, October 17, 1978.

PLACE: Hearing Room "C", Interstate Commerce Commission Building, 12th and Constitution Avenue NW., Washington, D.C. 20423.

STATUS: Open regular conference.

MATTER TO BE CONSIDERED: Staff briefing on Milwaukee Road—Levels of service provided, prospects for winter, status of any merger negotiations, and status of employee layoffs.

CONTACT PERSON FOR MORE INFORMATION:

Douglas Baldwin, Director, Office of Communications, telephone 202-275-7252.

The Commission's professional staff will be available to brief news media representatives on conference issues at the conclusion of the meeting.

OCTOBER 11, 1978.

[S-2068-78 Filed 10-11-78; 3:52 pm]

[4410-01-M]

6

UNITED STATES PAROLE COMMISSION.

TIME AND DATE: Thursday, October 19, 1978 at 8:30 a.m. to 10 a.m.; returning at 12:30 p.m. and closing at 6 p.m.

PLACE: Room 500, 320 First Street NW., Washington, D.C.

STATUS: Open or closed, pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Appeals to the Commission of approximately 20 cases decided by the National Commissioners pursuant to a reference under 28 CFR 2.17 and appealed pursuant to 28 CFR 2.27. These are all cases originally heard by examiner panels wherein inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION:

Lee H. Chait, Analyst, 202-724-3094.

[S-2065-78 Filed 10-11-78; 11:34 am]

[6155-01-M]

7

BOARD FOR INTERNATIONAL BROADCASTING.

TIME AND DATE: 9:30 a.m., October 20, 1978.

PLACE: Board for International Broadcasting Conference Room, Suite 430, 1030 15th Street NW., Washington, D.C. 20005.

STATUS: Closed, pursuant to 5 U.S.C. 552b(c)(1), 1 CFR 460.4 (c) and (h) of the Board's rules (42 FR 9388, February 16, 1977).

MATTERS TO BE CONSIDERED: Matters concerning the broad foreign policy objectives of the U.S. Government.

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Arthur D. Levin, Budget and Administrative Officer, Board for International Broadcasting, 1030 15th Street NW., Washington, D.C. 20005, 202-254-8040.

[S-2069-78 Filed 10-11-78; 4:00 pm]

Federal Register

FRIDAY, OCTOBER 13, 1978
PART II



DEPARTMENT OF LABOR

Employment Standards Administration

■

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

[4510-27-M]

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders 12-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

MODIFICATIONS AND SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS ARE BASED UPON INFORMATION OBTAINED CONCERNING CHANGES IN PREVAILING HOURLY WAGE RATES AND FRINGE BENEFIT PAYMENTS SINCE THE DECISIONS WERE ISSUED.

The determinations of prevailing rates and fringe benefits made in the Modifications and supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pusuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

MODIFICATIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State.

Connecticut:	
CT78-3055; CT78-3056	July 28, 1978.
Mississippi:	
MS78-1079	Sept. 15, 1978.
Washington, D.C:	
DC78-3008	Mar. 17, 1978.
West Virginia:	
WV77-3083	Sept. 30, 1977.

SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Alabama:	
AL76-1138(AL78-1082)	Dec. 3, 1976.
Georgia:	
GA77-1117(GA78-1088); GA77-1118 (GA78-1089)	Sept. 30, 1977.
Louisiana:	
LA78-4072(LA78-4113)	July 14, 1978.
Minnesota:	
MN78-2096(MN78-2118); MN78-2098 (MN78-2119)	Sept. 29, 1978.
South Carolina:	
SC75-1055(SC78-1087)	May 23, 1975.
Virginia:	
AR-2032(VA78-3072)	Aug. 30, 1974.
VA78-3040(VA78-3073)	May 5, 1978.

CANCELLATION OF GENERAL WAGE DETERMINATION DECISIONS—NONE

Signed at Washington, D.C., this 6th day of October, 1978.

DOROTHY P. COME,
Assistant Administrator
Wage and Hour Division.

DECISION #CT78-3055 - MOD #7
(43 FR 33023 - July 28, 1978)
Fairfield, Litchfield and Windham Counties, Connecticut

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
BRICKLAYERS: (Heavy & Highway Construction)					
Greenwich	$10.00	.55	.55	b	
Darien & Stamford	9.93	.83	.25	b	
Except Greenwich, Darien & Stamford	9.60	.75	.75	b	
LABORERS: (Heavy & Highway Construction)					
Change Pension fund on all Heavy & Highway Construction Laborers to $.75					
POWER EQUIPMENT OPERATORS					
HEAVY & HIGHWAY CONSTRUCTION					
Class 1	11.80	.90	.85	a	.10
Class 2	11.64	.90	.85	a	.10
Class 3	11.29	.90	.85	a	.10
Class 4	11.09	.90	.85	a	.10
Class 5	10.93	.90	.85	a	.10
Class 6	10.73	.90	.85	a	.10
Class 7	10.51	.90	.85	a	.10
Class 8	9.58	.90	.85	a	.10
Class 9	9.69	.90	.85	a	.10
Class 10	10.07	.90	.85	a	.10
Class 11	10.43	.90	.85	a	.10
Class 12	9.21	.90	.85	a	.10
Class 13	10.00	.90	.85	a	.10
SURVEY CREWS					
Chief of Party	10.06	.90	.85	a	.10
Ass't Chief of Party	9.34	.90	.85	a	.10
Instrument Man	8.63	.90	.85	a	.10
Rodman & Chainman	6.46	.90	.85	a	.10
TRUCK DRIVERS: (Heavy & Highway Construction)					
Class 1	7.91	.74	.725	a	
Class 2	8.01	.74	.725	a	
Class 3	8.11	.74	.725	a	
Class 4	7.96	.74	.725	a	
Class 5	8.06	.74	.725	a	
Class 6	8.11	.74	.725	a	

DECISION #CT78-3056 - MOD #5
(43 FR 33030 - July 28, 1978)
Hartford, Middlesex, New Haven, New London, and Tolland Counties, Connecticut

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
BRICKLAYERS: (Heavy & Highway Construction)	$ 9.60	.75	.75	b	
LABORERS: (Heavy & Highway Construction)					
Change Pension fund on all Heavy & Highway Construction Laborers to $.75					
POWER EQUIPMENT OPERATORS (Heavy & Highway Construction)					
Class 1	11.80	.90	.85	a	.10
Class 2	11.64	.90	.85	a	.10
Class 3	11.29	.90	.85	a	.10
Class 4	11.09	.90	.85	a	.10
Class 5	10.93	.90	.85	a	.10
Class 6	10.73	.90	.85	a	.10
Class 7	10.51	.90	.85	a	.10
Class 8	9.58	.90	.85	a	.10
Class 9	9.69	.90	.85	a	.10
Class 10	10.07	.90	.85	a	.10
Class 11	10.43	.90	.85	a	.10
Class 12	9.21	.90	.85	a	.10
Class 13	10.00	.90	.85	a	.10
Survey Crews					
Chief of Party	10.06	.90	.85	a	.10
Ass't Chief of Party	9.34	.90	.85	a	.10
Instrument Man	8.63	.90	.85	a	.10
Rodman & Chainman	6.46	.90	.85	a	.10
TRUCK DRIVERS: (Heavy & Highway Construction)					
Class 1	7.91	.74	.725	a	
Class 2	8.01	.74	.725	a	
Class 3	8.11	.74	.725	a	
Class 4	7.96	.74	.725	a	
Class 5	8.06	.74	.725	a	
Class 6	8.11	.74	.725	a	

MODIFICATIONS P. 3

Decision # MS-78-1079 - Mod. #1 (43 FR 41348 September 15, 1978) Hancock, Harrison, Jackson, and Pearl River Counties, Mississippi.	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Asbestos workers (Jackson and Harrison	10.95	.55	1.05	c	.02
Bricklayers:					
Bricklayers	9.35		.40		
Blockmasons	9.35		.40		
Caulkers & Pointers	9.35		.40		
Marble masons	9.35		.40		
Stonemasons	9.35		.40		
Plasterers	9.25		.40		
Terrazzo workers	9.25		.40		
Tile setters	9.25		.40		
Cement masons	8.75		.40		
DECISION #DC78-3008 - Mod. # 6 (43 FR 11464 - March 17, 1978) District of Columbia; Maryland Montgomery and Prince Georges; and D. C. Training School; Virginia - Independent City of Alexandria & Arlington					
Change:					
HEAVY CONSTRUCTION EXCLUDING WATER AND SEWER LINES: All Counties					
BUILDING CONSTRUCTION: Excluding Alexandria, Virginia					
Bricklayers	$11.55	1.10	.85		.10
PAVING AND INCIDENTIAL GRADING: (District of Columbia only) except paving project where the grading is incidential to the paving:					
Bricklayers	11.55	1.10	.85		.10
WATER AND SEWER LINES: (District of Columbia and Montgomery County Maryland only)					
Bricklayers	11.55	1.10	.85		.10
Power Equipment Operators: Trenching machines(up to 8' 3"), boilers skelton, well drilling machines	7.94	.35	.45		.05

MODIFICATIONS P. 4

DECISION #WV77-3083 - Mod. #6
(42 FR 53172 - September 30, 1977)
Statewide, West Virginia

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Bricklayers and Stone Masons:					
Area 8	9.65				
Electricians:					
Area 6					
Contracts under $12,000:					
Wiremen	5.50	.50	3%+1.02	1.52	.02
Contracts $12,000 or more:					
Wiremen	10.05	.50	3%+1.02	1.52	.02
Cable Splicers	10.20	.50	3%+1.02	1.52	.02
Area 17					
Contracts under $30,000:					
Wiremen	6.45	.50	3%		3/4%
Contracts $30,000 or more:					
Wiremen	10.20	.50	3%		3/4%
Line Construction:					
Area 4					
Linemen & Equipment Operators	9.65	.50	3%+.52	2.02	4%
Cable Splicers	10.615	.50	3%+.52	2.02	4%
Groundmen & Truck Drivers	7.72	.50	3%+.52	2.02	4%
Painters:					
Area 1					
Painters-					
An area within 50 miles of Huntington, W.V.	9.02	.30	.35		.02
An area 50 miles and beyond of Huntington, W.V.	10.27	.30	.35		.02
Structural Steel -					
An area within 50 miles of Huntington, W.V.	10.12	.30	.35		.02
An area 50 miles and beyond of Huntington, W.V.	11.37	.30	.35		.02
Bridge & Hazardous Work (including towers, smoke stacks, flag poles & tanks)					
An area within 50 miles of Huntington, W.V.	10.84	.30	.35		.02
An area 50 miles and beyond of huntington, W.V	12.09	.30	.35		.02
Area 4					
New Construction:					
Brush	9.96	.40	.30		.01
Roller	10.22	.40	.30		.01
Spray & Blast, Pot-Men	10.98	.40	.30		.01

DECISION #WV77-3083

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Area 4 Cont'd					
Repaint Work					
Brush	8.54	.40	.30		.01
Roller	8.82	.40	.30		.01
Spray-Pot-Men	10.98	.40	.30		.01
Bridge					
Brush	10.66	.40	.30		.01
Roller	10.91	.40	.30		.01
Spray, Blast, Glove	11.66	.40	.30		.01
Open structural steel	10.31	.40	.30		.01
Stacks, vent pipes, flag poles, electrical, radio & T.V. towers & tanks over 30 feet high	10.91	.40	.30		.01

SUPERSEDEAS DECISION

STATE: Alabama COUNTY: Montgomery
DECISION NUMBER: AL78-1082 DATE: Date of Publication
Supersedes Decision No.: AL76-1138 dated December 3, 1976 in 41 FR-53241
DESCRIPTION OF WORK: Building Construction, (does not include residential construction consisting of single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air conditioning mechanics	5.72				
Bricklayers	7.15				
Carpenters	5.66				
Form setters	3.25				
Cement masons	4.15				
Electricians	7.58				
Elevator constructors	9.74	.565	.35	.78	
Glaziers	7.15	.50	.40		
Ironworkers, structural & ornamental	4.40				
Ironworkers, reinforcing	4.00				
Laborers:					
Laborers	3.05				
Asphalt raker	3.75				
Pipelayers	4.00				
Lathers	6.75				
Painters:					
Brush	5.90				
Sandblasters and spray	7.80		.30		
Paperhanger	7.45		.40		
Plasterers	5.75				
Plumbers & pipefitters	6.60				
Roofers	4.67				
Kettlemen	3.50				
Sheet metal workers	5.81				
Soft floor layers	5.41				
Sprinkler fitters	6.45				
Tile setters	6.00				
Truck drivers	3.75				
Welders - rate for craft;					
POWER EQUIPMENT OPERATORS:					
Asphalt rollers	4.75				
Asphalt spreader	5.25				
Backhoe	4.90				
Bulldozer	6.00				
Crane operator	6.61				
Finishing machine	4.00				
Front end loader	4.85				
Motor grader	6.00				
Motor patrol	8.51				
Piledriver	5.50				
Screed operator	3.50				
Tractor	3.75				

SUPERSEDEAS DECISION

STATE: GEORGIA COUNTY: CHATHAM
DECISION NUMBER: GA78-1088 DATE: DATE OF PUBLICATION
Supersedes Decision No. GA77-1117, dated September 30, 1977, in 42 FR 52998.
DESCRIPTION OF WORK: BUILDING CONSTRUCTION (does not include single family homes and garden type apartments up to and including 4-stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.19	.45	.60		
BOILERMAKERS	9.95	1.05	1.05		.02
BRICKLAYERS, STONE MASONS, MARBLE MASONS, TILE SETTERS, & TERRAZZO WORKERS	9.30	.40	.20		.01
CARPENTERS & SOFT FLOOR LAYERS	9.05	.50			
CEMENT MASONS	7.75				
ELECTRICIANS:					
Wiremen	9.90	.60	3% + .65		1/5 of 1%
Cable splicers	10.15	.60	3% + .65		1/5 of 1%
ELEVATOR CONSTRUCTORS:					
Mechanics	9.255	.745	.56	4% +a+b	.025
Helpers	6.485	.745	.56	4% +a+b	.025
IRONWORKERS - Structural, Reinforcing, & Ornamental	9.50	.70	.90		.03
LATHERS	7.65				
MILLWRIGHTS	9.65	.50			
PAINTERS:					
Brush & roller	8.10				
Paperhangers, drywall tapers, & paint burners	8.35				
Window jacks, steel brush, & steel roller	8.60				
Sandblasting, paint spraying, paint mitts & gloves, & power tools (no roller larger than 9")	8.85				
PILEDRIVERMEN	9.30	.50			
PLASTERERS					
PLUMBERS & PIPEFITTERS:					
Contracts $15,000.00 or less	10.05	.45	.60		.05
Contracts over $15,000.00	10.70	.45	.60		.05
ROOFERS	5.50				
SHEET METAL WORKERS	9.23	.45			.04
SPRINKLER FITTERS	10.80	.75	1.05		.08
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION GA78-1088

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
General laborers, traffic flagman, track spotter	$ 5.07	.15	.13		.10
Operators of jackhammer, tamp, paving breaker, chipping hammer, spade, chainsaw, vibrators, motorized buggies, mason tenders, cement mason tenders, terrazzo helpers, railroad or track laborers, walk behind compactor or roller plasterer and carpenter tenders	5.22	.15	.13		.10
Mortar mixers (hand or machine), pipelayers, (harner, potman, etc.), flagman, (cranes, derricks, etc.)	5.32	.15	.13		.10
Burner (torch) on demolition work, track or wagon drills used in blasting	5.57	.15	.13		.10
Powderman or blaster	6.07	.15	.13		.10

DECISION GA78-1088

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Cranes, derricks, draglines, aidebooms, cherry pickers, mechanics, piledrivers, crawlers, backhoes (3/4 cy. & up), concrete pumps, clam shell, drill operators, concrete mixers plant, locomotive, two drum hoist, shovels, generators (250 KW & UP), and hydraulic cranes over 10 tons	$10.03	.55	.50		.02
Bulldozers, hydraulic boom trucks (10 tons & under), scrapers, end loaders, fork tractors, one drum hoist, air compressors 600 CFM & over, motor graders, tuggers, rollers, plain tractors, fireman, rubber tired backhoe less than 3/4 cy., push dozer, trenching machines	8.60	.55	.50		.02
Oiler, pump operator (over 4" dia.), small backhoe, air compressors under 600 CFM	7.90	.55	.50		.02
Mechanics' helpers, servicing welding machines, pump up to 4" Dia.	6.05	.55	.50		.02

FOOTNOTES:

a. Seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; Christmas Day.

b. Employer contributes 4% of the basic hourly rate of employees with 5 years or more of service, or 2% of the basic hourly rate of employees with 6 months to 5 years of service as Vacation Pay Credit.

SUPERSEDEAS DECISION

STATE: GEORGIA COUNTY: RICHMOND
DECISION NUMBER: GA78-1089 DATE: DATE OF PUBLICATION
Supersedes Decision No. GA77-1118, dated September 30, 1977, in 42 FR 53000.
DESCRIPTION OF WORK: BUILDING CONSTRUCTION (does not include single family homes and garden type apartments up to and including 4-stories).

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 8.85	.45	.50		
BOILERMAKERS	9.95	1.05	1.05		.02
BRICKLAYERS, STONE MASONS, MARBLE MASONS, TILE SETTERS, TERRAZZO WORKERS, & PLASTERERS	8.85				
CARPENTERS	9.05				.02
CEMENT MASONS	8.45				
ELECTRICIANS:					
Wiremen	9.76	.50	3% + .20		1/4 of 1%
Cable splicers	10.01	.50	3% + .20		1/4 of 1%
ELEVATOR CONSTRUCTORS:					
Mechanics	9.255	.745	.56	4% +a+b	.025
Helpers	6.485	.745	.56	4% +a+b	.025
IRONWORKERS - Structural, Reinforcing, & Ornamental	9.50	.70	.90		.03
LABORERS:					
Building & Construction laborers	5.10	.15			.10
Power & air tool operators, concrete or clay pipe layers & wipers, mortar makers & power buggy operators	5.25	.15			.10
Powderman, wagon drill operators, tool room tenders, tunnel laborers, shaft laborers, burners, acetylene (demolition work), slip form workers (steel or wood, screw or jack type), potman, creosote materials handler, steel form setter (on grade), chimney or stack workers	5.30	.15			.10
LATHERS	7.65				
LINE CONSTRUCTION:					
Linemen	9.76	.50	3% + .20		1/4 of 1%
Cable splicers	10.01	.50	3% + .20		1/4 of 1%
Truck operators	6.05	.50	3% + .20		1/4 of 1%
Groundmen	5.47	.50	3% + .20		1/4 of 1%
MILLWRIGHTS	10.05				.02

DECISION NO. GA78-1089

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Brush & 9" roller, & drywall finisher	$ 7.60	.45	.30		
Paper hanging, sign painting, glazing, structural steel (painting & cleaning) excluding metal doors & frames	8.10	.45	.30		
Power tools, all type epoxy & chemical materials, such as bitumastic, conaps, clornate, all stage work, window jacks, botsun chair, ladder jacks & built-up scaffold, extension ladder over 36'	8.60	.45	.30		
Regular spray & gloves	8.85	.45	.30		
Blasting	9.10	.45	.30		
PILEDRIVERMEN	9.35				.02
PLUMBERS & PIPEFITTERS	10.53	.50	.50		.03
ROOFERS	7.45	.30	.20		
SHEET METAL WORKERS	9.35				.04
SPRINKLER FITTERS	10.80	.75	1.05		.08
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTES:

a. Seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; Christmas Day.

b. Employer contributes 4% of the basic hourly rate of employees with 5 years or more of service, or 2% of the basic hourly rate of employees with 6 months to 5 years of service as Vacation Pay Credit.

DECISION NO. GA78-1089

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
Cranes, derricks, draglines, sidebooms, cherry pickers, mechanics, piledrivers, crawlers, backhoes (3/4 cy. & up), concrete pumps, clam shell, drill operators, concrete mixers plant, locomotive, two drum hoist, shovels, generators (250 KW & up), and hydraulic cranes over 10 tons.	$10.03	.55	.50		.02
Bulldozers, hydraulic boom trucks (10 tons & under), scrapers, end loaders, fork tractors, one drum hoist, air compressors (600 CFM & over), motor graders, tuggers, roller, plain tractors, fireman, rubber tired backhoe (less than 3/4 cy.), push dozer, trenching machines.	8.60	.55	.50		.02
Oiler, pump operator (over 4" dia.), small backhoe, air compressors under 600 CFM.	7.90	.55	.50		.02
Mechanics' helpers, servicing welding machines, pump up to 4" dia.	6.05	.55	.50		.02

SUPERSEDEAS DECISION

STATE: Louisiana
DECISION NO.: LA78-4113
PARISHES: Bossier, Caddo & Calcasieu
DATE: Date of Publication
Supersedes Decision No. LA78-4072, dated July 14, 1978, in 43 FR 30456.
DESCRIPTION OF WORK: Residential construction consisting of single family homes & garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Bossier & Caddo Parishes	$10.43	.40	.76		.03
Calcasieu Parish	11.47	.525	.90		.04
BOILERMAKERS	10.55	.80	1.00		.02
BRICKLAYERS & STONEMASONS:					
Bossier & Caddo Parishes	9.90	.40	.45		
Calcasieu Parish	11.25	.53	.30		.02
CARPENTERS:					
Bossier & Caddo Parishes:					
Carpenters	9.55	.40	.35		.04
Millwrights	11.30	.40	.35		.04
Piledrivermen	9.80	.40	.35		.04
Calcasieu Parish:					
Carpenters & piledrivermen	10.05	.50	.33		.07
Millwrights	11.73				.07
CEMENT MASONS:					
Bossier & Caddo Parishes	9.05	.35			
Calcasieu Parish	9.45				
ELECTRICIANS:					
Bossier & Caddo Parishes:					
Electricians	11.80	1.00	3%		1%
Cable splicers	12.30	1.00	3%		1%
Calcasieu Parish:					
New & old single or multiple family residences & apartment complexes, not to exceed 12 units, 2 story walk-up	6.25	.35	3%+.20		3/10%
Other work:					
Electricians	13.05	.35	3%+.40		1/10%
Cable splicers	13.30	.35	3%+.40		1/10%
ELEVATOR CONSTRUCTORS:					
Bossier & Caddo Parishes:					
Mechanics	9.595	.745	.35	4%+a+b	.02
Helpers	70%JR	.745	.35	4%+a+b	.02
Helpers (Probationary)	50%JR				
Calcasieu Parish:					
Mechanics	9.76	.545	.35	4%+a+b	.02
Helpers	70%JR	.545	.35	4%+a+b	.02
Helpers (Probationary)	50%JR				
GLAZIERS:					
Bossier & Caddo Parishes	8.28		.30		.04
Calcasieu Parish	11.15				.02
IRONWORKERS:					
Bossier & Caddo Parishes	10.75	.45	.90		.06
Calcasieu Parish	10.70	.35	.60		.05

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Bossier & Caddo Parishes:					
GROUP 1 - Building laborers	$ 6.50	.20	.10		.05
GROUP 2 - Mason tenders, plasterer tenders; asphalt rakers, asphalt smoothers	6.60	.20	.10		.05
GROUP 3 - Mortar mixers	6.65	.20	.10		.05
GROUP 4 - Air jacks, vibrators; sewer pipe layers & wipers	6.70	.20	.10		.05
Calcasieu Parish:					
GROUP 1 - Building & general laborer; tenders (carpenter, plaster, cement finisher, mason); tank & vessel cleaners	7.80	.20	.10		.05
GROUP 2 - Air tool op. (except jackhammer); interior of closed tanks & vessels power equipment	7.90	.20	.10		.05
GROUP 3 - Mortar mixers	7.95	.20	.10		.05
GROUP 4 - Jackhammer operator	8.05	.20	.10		.05
GROUP 5 - Blasterers	8.76	.20	.10		.05
GROUP 6 - Blaster helpers; concrete cutters behind paving machines & puddlers; form setters & lines asphalt worker	8.32	.20	.10		.05
GROUP 7 - Wipe joints, laying pipe & tile from pumpcrete	8.16	.20	.10		.05
GROUP 8 - Interior or closed tanks & vessels manually	7.85	.20	.10		.05
LATHERS:					
Bossier & Caddo Parishes	10.75				
Calcasieu Parish	10.585	.30			.01
MARBLE SETTERS:					
Bossier & Caddo Parishes	8.85	.30			
Calcasieu Parish	11.25	.53	.30		.02
PAINTERS:					
Bossier & Caddo Parishes:					
Painters, tape & float, vinyl & paperhangers	9.20	.40	.30		.05
Calcasieu Parish:					
GROUP 1 - Brush, roller, buffer	10.685		.10		
GROUP 2 - Paperhangers, taping & floating	10.885		.10		
GROUP 3 - Spray, sandblasting	11.03		.10		
PLASTERERS:					
Bossier & Caddo Parishes	9.75			1.00	
Calcasieu Parish	10.07				
PLUMBERS & PIPEFITTERS:					
Bossier & Caddo Parishes	10.54	.50	.60	.95	.09
Calcasieu Parish	11.97	.67	.72		.08
ROOFERS:					
Bossier & Caddo Parishes:					
Roofers	9.35		.20		.04
Kettlemen	6.48		.20		.04

DECISION NO. LA78-4113

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS (CONT'D):					
Calcasieu Parish:					
Roofers	$10.03		.20		
SHEET METAL WORKERS:					
Bossier & Caddo Parishes	6.46	3%+.40			.12
Calcasieu Parish	11.47	.45	.55		.13
SOFT FLOOR LAYERS:					
Bossier & Caddo Parishes	9.55	.40	.35		.04
Calcasieu Parish	10.05	.50	.33		.07
SPRINKLER FITTERS	10.80	.75	1.05		.08
TERRAZZO WORKERS:					
Bossier & Caddo Parishes	8.85	.30			
Calcasieu Parish	11.25	.53	.30		.02
TILE SETTERS:					
Bossier & Caddo Parishes	8.85	.30			
Calcasieu Parish	8.30	.48	.30		.02
TRUCK DRIVERS:					
Bossier & Caddo Parishes:					
GROUP 1 - Pick-ups, spotters & dumpers	5.47				
GROUP 2 - Stake bodies; flat beds (all sizes)	5.55				
GROUP 3 - Single axle dumps & water trucks; transit mix up to & including 3 yds.	5.80				
GROUP 4 - Tandem axle, dump, batch & water trucks over 3 tons, pick-ups with trailer	5.95				
GROUP 5 - Mississippi wagons, floats, tractor trailers; rubber tired tractors & wobble wheels	6.10				
GROUP 6 - Euclids, lowboys, Dempsey dumpsters, Koehring dumps, 5 axle trucks, transit mix over 3 yds.	6.30				
Calcasieu Parish:					
GROUP 1 - Pick-ups	4.91				
GROUP 2 - Stake bodies(all sizes)	5.34				
GROUP 3 - Trucks trailer & dump over 8 yds.; Mixers on trucks over 3 yds.; Mississippi wagon & Koehring dumpsters & similar dirt moving equipment (up to & including 8 yds.)	5.55				
GROUP 4 - Mixers on trucks up to & including 3 yds.	5.35				
GROUP 5 - Winch trucks	5.45				
GROUP 6 - Dump trucks	5.37				
GROUP 7 - Mississippi wagons & Koehring dumpsters & similar dirt moving equipment over 8 yds.	5.76				

DECISION NO. LA78-4113

FOOTNOTES FOR ELEVATOR CONSTRUCTORS:
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rate
b - Paid Holidays - A thru G

PAID HOLIDAYS FOR ELEVATOR CONSTRUCTORS:
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-the Friday after Thanksgiving Day; G-Christmas Day

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
Calcasieu Parish:					
GROUP 1	$ 7.43	.65	.48		.05
GROUP 2	7.11	.65	.48		.05
GROUP 3	6.90	.65	.48		.05
GROUP 4	7.71	.65	.48		.05
GROUP 5	10.095	.65	.48		.05
GROUP 6	8.12	.65	.48		.05
GROUP 7	8.80	.65	.48		.05

GROUP 1 - Scale Operator; Oiler-Driver on Motor Crane; Batch Plant Operator
GROUP 2 - Pumps under 3 inch suction; Mechanic Helper
GROUP 3 - Oiler
GROUP 4 - Fireman
GROUP 5 - Combination Oiler-Compressor; Combination Oiler-Fireman; Asphalt Spreaders; Backhoe (all types); Bulldozers; Cableways; Cherry Pickers (all types); Concrete Mixers (over 1 sack); Cranes; Deck Winch (2 drums or over); Derricks; Ditching or trenching machines (riding type); Draglines; Dredges; Fork Lifts (other than farm type) outside warehouses; Foundation Drill; Front End Loaders (except farm type); Grease Serviceman; Hoist-1 drum (4 stories or more on buildings); Hoist-1 drum (over 40 ft. on structures other than buildings); Hoist (2 drum or over); Locomotive (all types); Mechanic; Mixer Plant Operator-Central Mix; Motor Patrols; Pile-drivers; Pull Cat; Pump Crete-6" and over discharge; Push Cat; Road Pavers; Rollers (Plant Mix Asphalt); Scrapers; Shovels; Sidebooms; Unit Operator; Welder, Journeyman; Well Point System; Whirleys; Winch Cats (Cat D-4 & over); Winch Truck with A-Frame (5 ton & over); Work Boats-requiring licensed operator
GROUP 6 - Bush Hog; Compressor; Concrete pump-under 6" discharge; Concrete Saw; Deck Winch (1 drum); Distributors; Ditching or trenching machines (non-riding type); Dowel Bar Machine; Farm-type tractors (when used to pull discs, grass cutters, etc.); Hoist-1drum (under 4 stories on buildings); Hoist-1 drum (40 feet or under on structures other than buildings); Kolum Buff Machines; Mixers (1 sack & under); Motorized street sweepers self-propelled; Pump (3" & over); Test Pump-Internal combustion engine powered; Water Blast Pumps
GROUP 7 - Asphalt Plant Operators; Boom Trucks; Bull Floats; Concrete Spreader; Farm Type Front End Loaders; Finishing Machines (Roadway, riding type); Roller (other than plant mix asphalt); Straddle Buggies; Winch Truck with A-Frame (under 5 tons); Work Boats-not requiring licensed operator

SUPERSEDEAS DECISION

STATE: Minnesota

COUNTIES: Blue Earth, Fairbault, Freeborn & Mower

DECISION NUMBER: MN78-2118

DATE: Date of Publication

Supersedes Decision NO. MN78-2096, dated September 29, 1978 in 43 FR 45135

DESCRIPTION OF WORK: Building Construction (Including Residential), Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.13	.70	.65		.02
BOILERMAKERS	12.30	.85	1.00		.02
BRICKLAYERS:					
Blue Earth County					
Bricklayers, Stonemasons & Blocklayers	9.855	.50	.51	.61	
Mower County & that part of Freeborn Co., east of a line running north & south from Geneva to Gordon & the City of Blooming Prairie:					
Bricklayers, Stonemasons, Cement Blocklayers, Pointers, Caulkers & Cleaners	10.575	.50	.25		
Fairbault & Remainder of Freeborn County					
Bricklayers, Stonemasons, Tuck-Pointers & Blocklayers	10.18	.57	.25		
CARPENTERS:					
Building:					
Blue Earth County					
N. W. Portion of County	10.20				
Remainder of County	10.90	.50			.02
Freeborn & Fairbault Counties					
Carpenters, Millwrights & Piledrivermen	10.12				
Mower County					
Carpenters & Piledrivermen	10.12				
Site Preparation, Excavating & Incidential Paving					
Blue Rarth County	7.32	.30			
Fairbault, Freeborn & Mower Cos.	8.48				
CEMENT MASONS & PLASTERERS:					
Building:					
Blue Earth County					
Cement Masons	10.10				
Plasterers	9.40				
Mower County & that part of Freeborn Co., east of a line running north & south from Geneva to Gordon:					
Cement Masons & Plasterers	9.35	.50	.25		

DECISION NO.MN78-2118

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:					
Benton & Stearns Cos.; Twps. of Haven, Palmer, Santiago, Becker & Clear Lake inSherburne County:					
Jobs under $50,000	8.45	7½%	6%	10%	1½%
Jobs over $50,000	10.60	7½%	6%	10%	1½%
Remainder of Sherburne County	11.20	5 3/4%	5 7/8%	11½%	3/8%
GLAZIERS	10.03	.40			
IRONWORKERS	11.65	.75	.60		.04
LABORERS:					
Building Construction					
Stearns & Benton Counties:					
General Laborers, Demolition & Wrecking; Concrete Joint Saw Opr.; Signal Men	8.30	.20	.15		
Power Buggy Operators	8.35	.20	.15		
Mortar Mixers; Plasterer Tenders	8.40	.20	.15		
Jackhammer Men	8.45	.20	.15		
Underground; Caisson; Cofferdam & Tunnel work	8.55	.20	.15		
Dynamite Men	8.60	.20	.15		
Sherburne County:					
Common, Carpenter Tender	8.30	.45	.45	.40	
Wrecking & demolition	8.40	.45	.45	.40	
Vibrator Opr; Jackhammermen; Mortar Mixers	8.45	.45	.45	.40	
Underground Work	8.55	.45	.45	.40	
Pipelayers	8.60	.45	.45	.40	
Caisson Work - Underpinning	8.65	.45	.45	.40	
Dynamite Men	9.005	.45	.45	.40	
LATHERS:					
Benton & Stearns Counties	10.19	.50	.65	.01	
MARBLE SETTERS	10.355	.555	.33		

DECISION NO. MN78-2118

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Eastern 2/3 of Sherburne County:					
Brush, Roller & Paperhangers	$10.08	.55		.25	.09
Spray, Structural Steel & Sandblasting	10.68	.55		.25	.09
Benton, & Stearns Counties & the Remainder of Sherburne County:					
Residential	8.50			3%	
Brush	7.90			3%	
Structural Steel	8.40			3%	
Spray	8.90			3%	
PLUMBERS & STEAMFITTERS:					
Sherburne County:					
Plumbers Eastern ½ of County	10.39	.38	.50	1.35	.05
Steamfitters Eastern ½ of County	10.39	.38	.50	1.25	.05
Benton & Stearns Cos. & the Western ½ of Sherburne Co:					
Plumbers & Steamfitters	11.82	.53	.50		.06
ROOFERS:					
Roofers	8.90	.64	.25		
SHEET METAL WORKERS	11.52	.52	.31		.03
SPRINKLER FITTERS	11.93	.75	1.05		.08
TRUCK DRIVERS - Building	8.30				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental					

DECISION NO. MN78-2118

MINN-9-LAB

SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING

LABORERS

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Sherburne County					
CLASS 1	$ 8.70	.60	.45	.40	
CLASS 2	8.80	.60	.45	.40	
CLASS 3	8.85	.60	.45	.40	
CLASS 4	8.95	.60	.45	.40	
CLASS 5	9.00	.60	.45	.40	
CLASS 6	9.05	.60	.45	.40	
CLASS 7	9.10	.60	.45	.40	
CLASS 8	9.13	.60	.45	.40	
CLASS 9	9.15	.60	.45	.40	
CLASS 10	9.33	.60	.45	.40	
CLASS 11	9.38	.60	.45	.40	

CLASS 1 Unskilled Laborer, Drill Runner Helper, Landscape Gardener, Sod Layer & Nurseryman, Powder Monkey, Rein. Steel Lab., Rein. Steel Setter Salamander Heater & Blower Tender Carpenter Tender; Winch Handler

CLASS 2 Laborer, wrecking & Demolition; Bit. Batchermen (Stationary Plant); Bricklayer Tender; Cement Handler; Cement Coverman (Batch trucks); Compaction Equip. Shoveler, batchermen Conc., Conc. Vibrator Tamper & Puddler (Paving) Conc. Longitudinal Floatmen; Conduit Layer (w.o. wiring); Chipping Hammer, Surb Setter (Stone or Precast Conc.) Kettleman (BIT. or lead); Service connection maker; Power Buggy; Joint Sawer; Squeeze man (Bit. Brick or Block); Stabilizing batchermen (Stationary Plant); Stonemasons tender; Drill Runner (Heavy, including Churn Drill)

CLASS 3 Chainsaw Man, Conc. Mixer (1 bag); Jackhammer Man & Paving Buster; Mortar Mixer' Pipe Handler; Pipe Derrickman (Triped, manual)

CLASS 4 Bottom Man (Sewer, Water or Gas trench, more than 8' below starting level of manual work); Tunnel Laborer (Atmospheric pressure) Underpinning Work, Caisson Work, Oher work more than 8' below level of manual work Open ditch Work

DECISION NO. MN78-2118

LABORERS: (CONT'D)

CLASS 5 - Bituminous Tamper; Pipelayers; Sand Cushion & Bedmaker
CLASS 6 - Cement Gun (1½ & over); Leadman
CLASS 7 - Nozzlemen (Gunite)
CLASS 8 - Brick or Block Paving Setter
CLASS 9 - BITUminous Raker, Floater & Utility Man
CLASS 10 - Tunnel Man (Air pressure); Tunnel Miner
CLASS 11 - Powderman

DECISION NO. MN78-2118

MINN-11-LAB

LABORERS: SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Benton & Stearns Counties					
CLASS 1	$ 8.15	.55	.35	.40	
CLASS 2	8.20	.55	.35	.40	
CLASS 3	8.25	.55	.35	.40	
CLASS 4	8.30	.55	.35	.40	
CLASS 5	8.40	.55	.35	.40	
CLASS 6	8.70	.55	.35	.40	
CLASS 7	8.75	.55	.35	.40	
CLASS 8	8.80	.55	.35	.40	

CLASS 1 - Bricklayer Tender, Carpenter, Drill Runner Helper, Laborers-Wrecking & Demolition, Landscape Gardner, Pipe Handler (Water, Gas & Cast Iron); Salamander Heater & Blower Tender, Sod Layer & Nurseryman; Stonemason Tenders; Unskilled Laborers
CLASS 2 - Form Setter (Municipal Type Curb & Sidewald, Form Setter (Pavement) coverman (Batch Trucks); Cement Handler (Bulk or Bag); chain Saw Man; Compaction equipment (Hand operated); Concrete Mixer (1 Bag); Concrete Shoveler Tamper & Puddler (Paving); Concrete Vibrator; Conduit Layers (w/o wiring); Drill Runner (wagon, Truck, etc.); Jackhammerman, Joint Sawer, Kettleman (Bituminous or Lead); Mortar Mixers, Paving Buster, Power Buggy, Tunnel Laborer (Atmospheric pressure)
CLASS 4 - Bituminous Raker, Floater & Utility Man;, Caisson work, Cofferdam
CLASS 5 - Leadman
CLASS 6 - Gunnite
CLASS 7 - Pipelayer (Sewer, Water & Gas)
CLASS 8 - Powderman, Tunnel Miner

DECISION NO. MN78-2118

MINN-1-PEO-1

POWER EQUIPMENT OPERATORS: Building Construction	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$14.60	.55	.50		.05
CLASS 2	12.95	.55	.50		.05
CLASS 3	12.70	.55	.50		.05
CLASS 4	12.10	.55	.50		.05
CLASS 5	11.75	.55	.50		.05
CLASS 6	11.65	.55	.50		.05
CLASS 7	11.40	.55	.50		.05
CLASS 8	11.28	.55	.50		.05
CLASS 9	11.20	.55	.50		.05
CLASS 10	10.93	.55	.50		.05
CLASS 11	10.45	.55	.50		.05
CLASS 12	10.00	.55	.50		.05

CLASS 1 - Helicopter Operator
CLASS 2 - Truck & Crawler Cranes with 300' of Boom and over, including jib
CLASS 3 - Truck & Crawler Cranes w/200' of Boom, up to and not including 300' of Boom, including jib
CLASS 4 - Truck & Crawler Cranes with 150' of Boom, up to and not including 200' of Boom, including jib
CLASS 5 - Traveling Tower Crane
CLASS 6 - Master Mechanic; Pile Driving Operator
CLASS 7 - Truck & Crawler Cranes up to 150' of Boom, including jib; Derrick (Guy & Stiffleg); Hoist Engineer (3 drums or more); Locomotive Operator; Overhead Crane Operator (Inside Building Perimeter); Tower Cranes - Stationary Tractor Operator with Boom; All Terrain Vehicle Cranes; Fireman, Chief License
CLASS 8 - Air Compressor Operator, 375 CFM or over; Pump Operator and/or Conveyor Opr., (2 or more machines); Hoist Engineer (two drum); Mechanic or Welder; Pumpcrete or Complaco-type Machine Operator; Forklift
CLASS 9 - Boom Truck Operator; Concrete Mixer Operator; Drill Rigs - Heavy Rotary or Churn when used for caisson drilling for Elevator Cylinder or Building Construction; Front End loader Operator; Hoist Engineer (one drum); Straddle Carrier Operator; Power Plant Engineer (100 KW and over on miltiples equal to 100 KW and over); Tractor Operator over D2; Well Point Pump Operator
CLASS 10 - Concrete Batch Plant Operator; Fireman, First Class License; Gunite Operator; Tractor Operator D-2 or similar size; Front End Loader Operator, up to 1 cu. yd.
CLASS 11 - Air Compressor Opr., 375 CFM or over; Pump and/or Conveyor Opr.; Fireman, Temporary Heat; Brakeman; Pick-up Sweeper (1 cu. yd. and over hopper capacity); Truck Crane Oiler; Welding Machine Opr. (see Schedule 16 on Air Comp., Pumps, Conveyors, Welding Mach.
CLASS 12 - Mechanical Space Heater (Temporary Heat); Oiler or Greaser; Elevator Operator

DECISION NO. MN78-2118

MINN-7M-PEO-2-3

SITE PREPARATION, EXCAVATION & INCIDENTAL PAVING POWER EQUIPMENT OPERATORS: Sherburne Co. (South of the Northern Boundary of T-33-N & East of the Western Boundary of R-27-W	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$14.75	.55	.50		.05
GROUP 2	11.46	.55	.50		.05
GROUP 3	11.15	.55	.50		.05
GROUP 4	11.02	.55	.50		.05
GROUP 5	10.93	.55	.50		.05
GROUP 6	10.15	.55	.50		.05
GROUP 7	9.75	.55	.50		.05

GROUP 1 - Helicopter Pilot
GROUP 2 - Crane with over 135' Boom, excluding jib, Dragline and/or other similar equipment w/shovel type controls 3 cu. yds. & over Mfg. rates capacity
GROUP 3 - Cableway Op., concrete Mixer, Stationary Plant over 34E, Derrick, Dragline and/or similar equipment with shovel type control up to 3 cu. yds. Mfg. rates capacity, Dredge Operator or Engineer, dredge Oper. (power) & Yds. & over, Grader or Motor Patrol Finishing earth & bituminous, Locomotive crane Operator, Master Mechanic, Mixer (paving) Concrete Paving Op., Road Mole., Op., incl. power supply, Mucking Mach., incl. mucking operations Conway or similar type, Refrigeration Plant Engineer, Tandem Scraper, Tractor Op. (Boom Type), Truck Crane Op., Tugboat Op. 100 HP & over
GROUP 4 - Dual Tractor Op., Elevating Grader Op., Pumpcrete Op., Scraper Op., Struck Capacity 32 cu. yds. & over, Self-Propelled. Traveling Soil Stabilizer
GROUP 5 - Air track Rock Drill, Asphalt Bituminous Stabilizer Plant Op., Crushing Plant Op., or Gravel Washing, Crushing and Screening Plant Op., Dope Machine Op., Drill Rigs, Heavy Rotary or Churn or Cable Drill, Engineer in charge of Plant requiring First Class License, fork Lift or Lumber Stacker, Front End Loader Op., Loader Op., over 1 cu. yds., Hoist Engineer, Hydraulic Tree Planter, Launcherman, Locomotive, all types, Mechanic or welder, Multiple machines, such as air compressors, welding machines, generators, pumps or crane oilers, paving breaker or tamping machines op., (power-driven - Mighty might or similar type, Pick-up

DECISION NO. MN78-2118

POWER EQUIPMENT OPERATORS (CONT'D)

GROUP 5 (Cont'd)

sweeper, 1 cu. yd. & over Hopper capacity, Pipeline wrapping, cleaning or bending machine Op. Power Plant Engineer, Power actuated horizontal boring mach., over 6" op., pugmill op., roller, 8 tons & over, Rubber tired farm tractor, backhoe att., sheep foot op., tie tamper & hallast mach. Op., Tractor op., over D2, TD6 or similar HP with power take-off, tractor Op., over 50 HP without power take-off, trenching machine Op., (sewer, water, gas) turnapull op.,(or similar type) well point installation, dismatling or repair mechanic

GROUP 6 - Air compressor Op. 375 CFR or over, bituminous spreader and bituminous finishing machine op., Concrete dist. & Spreader op., finishing machine longitudinal float op., joint mach. op., spray., concrete mixer op. 14S and under, concrete op. (Mult. Blade), curb mach. op., Fine grade Op., form trench digger, front end loader op. (up to & incl. 1 cu. yd.), grader op. (motar patrol), gunite op. gunall, lead greader on truck or rack, loader op., power actuated Augars and boring mach. op. power actuated jacks op., pump op., roller op., self-propelled chip Spreader, shouldering mach. Op., stump chipper op., tractor op. (D2, TD6 or similar HP with power take-off)

GROUP 7 - Brakeman, switchman,conveyor op., deckhand, Fireman, Tank Car Heater op., Gravel screening plant op., greaser leverman, mech. helper, mech. space heater, oiler, self-prop. vib. packer op., sheep foot roller, tractor op. 50 HP or less w/o power take-off, truck crane oiler

DECISION NO. MN78-2118 MINN-6-PEO

POWER EQUIPMENT OPERATORS: SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Stearns Co; (East of the Western Right-of-Way of Minn. Hwy. 15) Benton Co.: (East of the Western Right-of-Way of Hwy. 10) & Remainder of Sherburne Co.					
GROUP 1 1	$14.45	.55	.50		.05
GROUP 2	11.16	.55	.50		.05
GROUP 3	10.85	.55	.50		.05
GROUP 4	10.73	.55	.50		.05
GROUP 5	10.63	.55	.50		.05
GROUP 6	9.85	.55	.50		.05
GROUP 7	9.45	.55	.50		.05

GROUP 1 - Helicopter Pilot

GROUP 2 - Crane with over 135' Boom, excluding jib, Dragline and/or other similar equipment w/shovel type controls 3 cu. yds. & over Mfg. rates capacity

GROUP 3 - Cableway Op., concrete Mixer, Stationary Plant over 34E, Derrick, Dragline and/or similar equipment with shovel type control up to 3 cu. yds. Mfg. rates capacity, Dredge Operator or Engineer, dredge Oper. (power) & Yds. & over, Grader or Motor Patrol Finishing earth & bituminous, Locomotive crane Operator, Master Mechanic, Mixer (paving) Concrete Paving Op., Road Mole., Op., incl. power supply, Mucking Mach., incl. mucking operations Conway or similar type, Refrigeration Plant Engineer, Tandem Scraper, Tractor Op. (Boom Type), Truck Crane Op., Tugboat Op. 100 HP & over

GROUP 4 - Dual Tractor Op., Elevating Grader Op., Pumpcrete Op., Scraper Op., Struck Capacity 32 cu. yds. & over, Self-Propelled. Traveling Soil Stabilizer

GROUP 5 - Air track Rock Drill, Asphalt Bituminous Stabilizer Plant Op., Crushing Plant Op., or Gravel Washing, Crushing and Screening Plant Op., Dope Machine Op., Drill Rigs, Heavy Rotary or Churn or Cable Drill, Engineer in charge of Plant requiring First Class License, fork Lift or Lumber Stacker, Front End Loader Op., Loader Op., over 1 cu. yds., Hoist Engineer, Hydraulic Tree Planter, Launcherman, Locomotive, all types, Mechanic or welder, Multiple machines, such as air compressors, welding machines, generators, pumps or crane oilers, paving breaker or tamping

DECISION NO. MN78-2118

(POWER EQUIPMENT OPERATORS) (CONT'D)

GROUP 5 (Cont'd)

machines op., (power-driven - Mighty might or similar type, Pick-up sweeper, 1 cu. yd. & over Hopper capacity, Pipeline wrapping, cleaning or bending machine Op. Power Plant Engineer, Power actuated horizontal boring mach., over 6" op., pugmill op., roller, 8 tons & over, Rubber tired farm tractor, backhoe att., sheep foot op., tie tamper & hallast mach. Op., Tractor op., over D2, TD6 or similar HP with power take-off, tractor Op., over 50 HP without power take-off, trenching machine Op., (sewer, water, gas) turnapull op.,(or similar type) well point installation, dismatling or repair mechanic

GROUP 6 - Air compressor Op. 375 CFR or over, bituminous spreader and bituminous finishing machine op., Concrete dist. & Spreader op., finishing machine longitudinal float op., joint mach. op., spray., concrete mixer op. 14S and under, concrete op. (Mult. Blade), curb mach. op., Fine grade Op., form trench digger, front end loader op. (up to & incl. 1 cu. yd.), grader op. (motar patrol), gunite op. gunall, lead greader on truck or rack, loader op., power actuated Augars and boring mach. op. power actuated jacks op., pump op., roller op., self-propelled chip Spreader, shouldering mach. Op., stump chipper op., tractor op. (D2, TD6 or similar HP with power take-off)

GROUP 7 - Brakeman, switchman,conveyor op., deckhand, Fireman, Tank Car Heater op., Gravel screening plant op., greaser leverman, mech. helper, mech. space heater, oiler, self-prop. vib. packer op., sheep foot roller, tractor op. 50 HP or less w/o power take-off, truck crane oiler

DECISION NO. MN78-2118

MINN-7-PED

POWER EQUIPMENT OPERATORS: SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING Remainder of Benton & Stearns Cos.	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$14.00	.55	.50		.05
GROUP 2	9.82	.55	.50		.05
GROUP 3	9.32	.55	.50		.05
GROUP 4	9.18	.55	.50		.05
GROUP 5	9.10	.55	.50		.05
GROUP 6	8.57	.55	.50		.05
GROUP 7	8.17	.55	.50		.05

GROUP 1 - Helicopter Pilot

GROUP 2 - Crane with over 135' Boom, excluding jib, Dragline and/or other similar equipment w/shovel type controls 3 cu. yds. & over Mfg. rates capacity

GROUP 3 - Cableway Op., concrete Mixer, Stationary Plant over 34E, Derrick, Dragline and/or similar equipment with shovel type control up to 3 cu. yds. Mfg. rates capacity, Dredge Operator or Engineer, dredge Oper. (power) & Yds. & over, Grader or Motor Patrol Finishing earth & bituminous, Locomotive crane Operator, Master Mechanic, Mixer (paving) Concrete Paving Op., Road Mole., Op., incl. power supply, Mucking Mach., incl. mucking operations Conway or similar type, Refrigeration Plant Engineer, Tandem Scraper, Tractor Op. (Boom Type), Truck Crane Op., Tugboat Op. 100 HP & over

GROUP 4 - Dual Tractor Op., Elevating Grader Op., Pumpcrete Op., Scraper Op., Struck Capacity 32 cu. yds. & over, Self-Propelled. Traveling Soil Stabilizer

GROUP 5 - Air track Rock Drill, Asphalt Bituminous Stabilizer Plant Op., Crushing Plant Op., or Gravel Washing, Crushing and Screening Plant Op., Dope Machine Op., Drill Rigs, Heavy Rotary or Churn or Cable Drill, Engineer in charge of Plant requiring First Class License, fork Lift or Lumber Stacker, Front End Loader Op., Loader Op., over 1 cu. yds., Hoist Engineer, Hydraulic Tree Planter, Launcherman, Locomotive, all types, Mechanic or welder, Multiple machines, such as air compressors, welding machines, generators, pumps or crane oilers, paving breaker or tamping machines op., (power-driven - Mighty might or similar type, Pick-up sweeper, 1 cu. yd. & over Hopper capacity, Pipeline wrapping, cleaning or bending machine Op. Power Plant Engineer, Power actuated horizontal boring mach., over 6" op., pugmill op., roller, 8 tons & over, Rubber

DECISION NO. MN78-2118

POWER EQUIPMENT OPERATORS (CONT'D)

GROUP 5 (Cont'd)

tired farm tractor, backhoe att., sheep foot op., tie tamper & hallast mach. Op., Tractor op., over D2, TD6 or similar HP with power take-off, tractor Op., over 50 HP without power take-off, trenching machine Op., (sewer, water, gas) turnapull op.,(or similar type) well point installation, dismatling or repair mechanic

GROUP 6 - Air compressor Op. 375 CFR or over, bituminous spreader and bituminous finishing machine op., Concrete dist. & Spreader op., finishing machine longitudinal float op., joint mach. op., spray., concrete mixer op. 14S and under, concrete op. (Mult. Blade), curb mach. op., Fine grade Op., form trench digger, front end loader op. (up to & incl. 1 cu. yd.), grader op. (motar patrol), gunite op. gunall, lead greader on truck or rack, loader op., power actuated Augars and boring mach. op. power actuated jacks op., pump op., roller op., self-propelled chip Spreader, shouldering mach. Op., stump chipper op., tractor op. (D2, TD6 or similar HP with power take-off)

GROUP 7 - Brakeman, switchman,conveyor op., deckhand, Fireman, Tank Car Heater op., Gravel screening plant op., greaser leverman, mech. helper, mech. space heater, oiler, self-prop. vib. packer op., sheep foot roller, tractor op. 50 HP or less w/o power take-off, truck crane oiler

DECISIN NO. MN78-2118

MINN-62-TD

TRUCK DRIVERS: BUILDING, SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Sherburne County					
GROUP 1	$ 9.20	.40	.50		
GROUP 2	8.90	.40	.50		
GROUP 3	8.80	.40	.50		
GROUP 4	8.60	.40	.50		

GROUP 1 - Driver (Hauling machinery for employer's own use, including operation of hand & power operated winches); Truck train Mechanic, Welder; Tractor-Trailer; Off-Road Truck

GROUP 2 - Tri-axle (including 4-Axles); Dump Dry Batch Hauler; Tank Truck (Gas, Oil, Road Oil & Water); Boom & "A" Frame; Ready Mix Concrete; Slurry Driver.

GROUP 3 - Bituminous Distributor; Bituminous Distributor (1-Man Operation); Tandem Axle.

GROUP 4 - Bituminous Distributor Spray (rear-end oiler); Dumpman; Greaser & truck Servicemen; Tank Truck Helper (Gas, Oil, Road Oil & Water) Teamster and Stableman. Tractor Operator (Wheel Type used for any purpose) Pilot car driver, self-Propelled Packer; Slurry Operator; Single Axle Trucks.

DECISION NO. MN78-2118

MINN-5-TD

TRUCK DRIVERS: SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Benton & Stearns Counties					
GROUP 1	$ 8.02	.40	.50		
GROUP 2	7.72	.40	.50		
GROUP 3	7.62	.40	.50		
GROUP 4	7.42	.40	.50		

GROUP 1 - Driver (Hauling machinery for employer's own use, including operation of hand & power operated winches); Truck train Mechanic, Welder; Tractor-Trailer; Off-Road Truck

GROUP 2 - Tri-axle (including 4-Axles); Dump Dry Batch Hauler; Tank Truck (Gas, Oil, Road Oil & Water); Boom & "A" Frame; Ready Mix Concrete; Slurry Driver.

GROUP 3 - Bituminous Distributor; Bituminous Distributor (1-Man Operation); Tandem Axle.

GROUP 4 - Bituminous Distributor Spray (rear-end oiler); Dumpman; Greaser & truck Servicemen; Tank Truck Helper (Gas, Oil, Road Oil & Water) Teamster and Stableman. Tractor Operator (Wheel Type used for any purpose) Pilot car driver, self-Propelled Packer; Slurry Operator; Single Axle Trucks.

SUPERSEDEAS DECISION

STATE: Minnesota
COUNTIES: Benton, Sherburne & Stearns
DECISION NUMBER: MN78-2119
DATE: Date of Publication
Supersedes Decision No. MN78-2098, dated September 29, 1978, in 43 FR 45143
DESCRIPTION OF WORK: Building (Including Residential), Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.13	.70	.65		.02
BOILERMAKERS	12.30	.85	1.00		.02
BRICKLAYERS & STONEMASONS	10.40		.25	1.00	
CARPENTERS:					
Building Construction					
Southern tip of Sherburne Co.					
Carpenters, Millwirghts & Piledrivermen	10.46	.65	.50	.50	.02
Soft Floor Layers	10.10	.61	.54	.45	.02
Cities of Little Rock & Skaja in Benton County					
Carpenters	9.35				
Stearns Co., Remainder of Benton & Sherburne Counties					
Carpenters & Piledrivermen	10.08			.75	
Soft Floor Layers	7.50				
Site Preparation, Excavation & Incidential Paving					
Sherburn Co.; Northern Bondary of T-34-N & East of the Western Boundary of R-27-W	8.21	.40	.30	.50	.02
Benton Co., Stearns Co. (East of A North-South Line Drawn from the intersection of Stearns, Todd & Morrison Cos.) & the remainder of Sherburne Co.	7.47			.75	
Remainder of Stearns County	7.62				
CEMENT MASONS:					
Building Construction					
Benton & Stearns Counties					
Cement masons & Plasterers	9.55		.25	.35	
Sherburne County					
Cement Masons	10.13	.60	.60		
Plasterers	10.00	.70	.25	.65	.01
Site Prepatation, Excavation & Incidential Paving					
Sherburne County	10.13	.60	.60		
Benton & stearns Counties	9.30			.25	

DECISION NO. MN78-2119

CEMENT MASONS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Fairbault Co., & Remainder of Freeborn No.:					
Cement Masons & Plasterers	$ 9.28	.57	.25		
Site preparation, Excavation & Incidential Paving					
Blue Earth County	10.10				
Fairbault Co.; Freeborn Co: (West of a line running North & South from Geneva to Gordonsville)	9.43	.42	.25		
Mower Co. & Remainder of Freeborn County	9.50	.35	.25		
ELECTRICIANS:					
Blue Earth & Fairbault Counties					
Jobs outside the Mankato City Area less than $50,000	8.45	7½%	6%	10%	1%
Jobs within a 5 mile radius of Mankato $50,000 & over	10.60	7½%	6%	10%	1%
Freeborn & Mower Counties $75,000 or more	10.65	.60	3%	6%	.25%
$75,000 or less & Residential	8.52	.60	3%	6%	.25%
ELEVATOR CONSTRUCTORS:					
Blue Earth County					
Constructors	10.87	.745	.35	a	.02
Helpers	70%JR	.745	.35	a	.02
Helpers (Prob.)	50%JR				
GLAZIERS:					
Blue Earth County	8.20				
Remainder of Counties	10.00				
IRONWORKERS	11.65	.75	.60		.04
LABORERS: Building					
General Laborers & Carp. Tender	8.50	.20	.15		
Mason tenders & Vibrator Oprs.	8.60	.20	.15		
Mortar Mixers	8.65	.20	.15		
MARBLE-TILE-TERRAZZO WORKERS:					
Marble Setters	10.355	.555	.33		
Terrazzo Workers	10.79	.64	.25		
Tile Setters	10.75	.62	.50		
Marble Setters' Finishers	9.35	.37	.50		
Tile Setters Finishers	9.90	.62	.50		

DECISION NO. MN78-2119

PAINTERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Mower County					
Brush	$ 9.50	.37	.25		.08
Spray	10.00	.37	.25		.08
Remainder of Counties					
Brush	9.90	.60	.15		.11
Spray	10.40	.60	.15		.11
Structural Steel	10.90	.60	.15		.11
PLUMBERS & STEAMFITTERS:					
Blue Earth County	11.72	.53			.05
Remainder of Counties	11.61	.30	.20		.02
ROOFERS:					
Mower County	9.62		.20		
Remainder of Counties	9.95	.55			
SHEET METAL WORKERS	10.74	.52	.33		
SPRINKLER FITTERS	11.93	.75	1.05		.08
TRUCK DRIVERS	8.50				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTES:

a. Employer contributes 8% BHR for over 5 years service & 6% BHR for under 5 years service as Vacation Pay. Seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day and Christmas Day and Day after Thanksgiving

DECISION NO. MN78-2119

MINN-12-LAB

LABORERS: SITE PREPARATION, EXCAVATION & INCIDENTAL PAVING	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$ 8.90	.35	.15		
CLASS 2	9.00	.35	.15		
CLASS 3	9.05	.35	.15		
CLASS 4	9.15	.35	.15		
CLASS 5	9.25	.35	.15		
CLASS 6	9.30	.35	.15		
CLASS 7	9.35	.35	.15		
CLASS 8	9.40	.35	.15		

CLASS 1 - Unskilled Laborers, Bricklayer & Carpenter Tenders; Drill Runner Helper; Laborers-Wrecking & Demolition; Landscape Gardner; Pipe Handler (Water, Gas, Cast Iron); Salamander Heater & Blower Tender; Sod; Sod Layer & Nurseryman, Stonemason Tender.
CLASS 2 - Bituminous Shoveler; Bottom Man (Sewer, Water or Gas Trench); Cement Coverman (Batch Trucks); Cement Handler (Bulk or bag) Chain Saw Shoveler; Tamper & Puddler (Paving); Concrete Vibrator; Conduit Layers (w/o wiring); Drill Runner (Heavy, incl. Churn Drill) Dumper (wagon, Truck Jackhammerman; Joint Sawyer, Kettlemen (Bituminous or Lead); Mortar Mixers; Paving Buster; Power Buggy; Tunnel Laborer (Atomspheric Pressure).
CLASS 3 - Bituminous Tamper
CLASS 4 - Bituminous Raker; Floater & Utility Man; Caisson Work; Cofferdam
CLASS 5 - Leadman
CLASS 6 - Nozzle (Gunnite)
CLASS 7 - Pipelayer (Sewer, Water & Gas)
CLASS 8 - Powderman

DECISION NO. MN78-2119

MINN-1-PEO-1

POWER EQUIPMENT OPERATORS: Building Construction	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	$14.60	.55	.50		.05
CLASS 2	12.95	.55	.50		.05
CLASS 3	12.70	.55	.50		.05
CLASS 4	12.10	.55	.50		.05
CLASS 5	11.75	.55	.50		.05
CLASS 6	11.65	.55	.50		.05
CLASS 7	11.40	.55	.50		.05
CLASS 8	11.28	.55	.50		.05
CLASS 9	11.20	.55	.50		.05
CLASS 10	10.93	.55	.50		.05
CLASS 11	10.45	.55	.50		.05
CLASS 12	10.00	.55	.50		.05

CLASS 1 - Helicopter Operator
CLASS 2 - Truck & Crawler Cranes with 300' of Boom and over, including jib
CLASS 3 - Truck & Crawler Cranes w/200' of Boom, up to and not including 300' of Boom, including jib
CLASS 4 - Truck & Crawler Cranes with 150' of Boom, up to and not including 200' of Boom, including jib
CLASS 5 - Traveling Tower Crane
CLASS 6 - Master Mechanic; Pile Driving Operator
CLASS 7 - Truck & Crawler Cranes up to 150' of Boom, including jib; Derrick (Guy & Stiffleg); Hoist Engineer (3 drums or more); Locomotive Operator; Overhead Crane Operator (Inside Building Perimeter); Tower Cranes - Stationary Tractor Operator with Boom; All Terrain Vehicle Cranes; Fireman, Chief License
CLASS 8 - Air Compressor Operator, 375 CFM or over; Pump Operator and/or Conveyor Opr., (2 or more machines); Hoist Engineer (two drum); Mechanic or Welder; Pumpcrete or Complaco-type Machine Operator; Forklift
CLASS 9 - Boom Truck Operator; Concrete Mixer Operator; Drill Rigs - Heavy Rotary or Churn when used for caisson drilling for Elevator Cylinder or Building Construction; Front End loader Operator; Hoist Engineer (one drum); Straddle Carrier Operator; Power Plant Engineer (100 KW and over on miltiples equal to 100 KW and over); Tractor Operator over D2; Well Point Pump Operator
CLASS 10 - Concrete Batch Plant Operator; Fireman, First Class License; Gunite Operator; Tractor Operator D-2 or similar size; Front End Loader Operator, up to 1 cu. yd.
CLASS 11 - Air Compressor Opr., 375 CFM or over; Pump and/or Conveyor Opr.; Fireman, Temporary Heat; Brakeman; Pick-up Sweeper (1 cu. yd. and over hopper capacity); Truck Crane Oiler; Welding Machine Opr. (see Schedule 16 on Air Comp., Pumps, Conveyors, Welding Mach.
CLASS 12 - Mechanical Space Heater (Temporary Heat); Oiler or Greaser; Elevator Operator

DECISION NO. MN78-2119

MTNN-6-PEO

POWER EQUIPMENT OPERATORS: SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$14.45	.55	.50		.05
GROUP 2	11.16	.55	.50		.05
GROUP 3	10.85	.55	.50		.05
GROUP 4	10.73	.55	.50		.05
GROUP 5	10.63	.55	.50		.05
GROUP 6	10.25	.55	.50		.05
GROUP 7	9.75	.55	.50		.05

GROUP 1 - Helicopter Pilot

GROUP 2 - Crane with over 135' Boom, excluding jib, Dragline and/or other similar equipment w/shovel type controls 3 cu. yds. & over Mfg. rated capacity

GROUP 3 - Cableway Op., concrete Mixer, Stationary Plant over 34E, Derrick, Dragline and/or similar equipment with shovel type control up to 3 cu. yds. Mfg. rated capacity, Dredge Operator or Engineer, dredge Oper. (power) & Engineer, Front End Loader Op., 5 cu. yds. & over, Grader or Motor Patrol, Finishing earthwork & bituminous, Locamotive Crane Operator, Master Mechanic, Mixer (paving) Concrete Paving Op., Road Mole., Op., incl. power supply, Mucking Mach., incl. mucking operations Conway or similar type, Refrigeration Plant Engineer, Tandem Scraper, Tractor Op. (Boom Type), Truck Crane Op., Tugboat Op. 100 HP & over

GROUP 4 - Dual Tractor Op., Elevating Grader Op., Pumpcrete Op., Scraper Op., Struck Capacity 32 cu. yds. & over, Self-Propelled. Traveling Soil Stabilizer

GROUP 5 - Air track Rock Drill, Asphalt Bituminous Stabilizer Plant Op., Crushing Plant Op., or Gravel Washing, Crushing and Screening Plant Op., Dope Machine Op., Drill Rigs, Heavy Rotary or Churn or Cable Drill, Engineer in charge of Plant requiring First Class License, fork Lift or Straddle carrier Op., Fork Lift or Lumber Stacker, Front End Loader Op., Loader Op., over 1 cu. yds., Hoist Engineer, Hydraulic Tree Planter, Launcherman, Locomotive, all types, Mechanic or welder, Multiple machines, such as air compressors, welding machines, generators, pumps or crane oilers, paving breaker or tamping machines op., (power-driven - Mighty might or similar type, Pick-up sweeper, 1 cu. yd. & over Hopper capacity, Pipeline wrapping, cleaning or bending machine actuated horizontal boring mach., over 6" op., pugmill op., roller, 8 tons & over, Rubber tired farm tractor, backhoe att., sheep foot op., tie tamper & ballast mach. Op., Tractor op., over D2, TD6 or similar HP with power take-off, tractor Op., over 50 HP without power take-off, trenching machine Op., (sewer, water, gas) turnapull op., (or similar type) well point installation, dismatling or repair mechanic

DECISION NO. MN78-2119

POWER EQUIPMENT OPERATORS: (CONT'D)

GROUP 6 - Air compressor Op. 375 CFR or over, bituminous spreader and bituminous finishing machine op., Concrete dist. & Spreader op., finishing machine longitudinal float op., joint mach. op., spray., concrete mixer op. 14S and under, concrete op. (Mult. Blade), curb mach. op., Fine grade Op., form trench digger, front end loader op. (up to & incl. 1 cu. yd.), grader op. (motar patrc , gunite op. gunall, lead greader on truck or rack, loaderop., power actuated Augars and boring mach. op. power actuated jacks op., pump op., roller op., self-propelled chip Spreader, shouldering mach. Op., stump chipper op., tractor op. (D2, TD6 or similar HP with power take-off)

GROUP 7 - Brakeman, switchman, conveyor op., deckhand, Fireman, Tank Car Heater op., Gravel screening plant op., greaser leverman, mech. helper, mech. space heater, oiler, self-prop. vib. packer op., sheep foot roller, tractor op. 50 HP or less w/o power take-off, truck crane oiler

DECISION NO. MN78-2119

MINN-5-TD

TRUCK DRIVERS: SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Fairbault County					
GROUP 1	$ 8.02	.40	.50		
GROUP 2	7.72	.40	.50		
GROUP 3	7.62	.40	.50		
GROUP 4	7.42	.40	.50		

GROUP 1 - Driver (Hauling machinery for employer's own use, including operation of hand & power operated winches); Truck train Mechanic, Welder; Tractor-Trailer; Off-Road Truck

GROUP 2 - Tri-axle (including 4-Axles); Dump Dry Batch Hauler; Tank Truck (Gas; Oil, Road Oil & Water); Boom & "A" Frame; Ready Mix Concrete; Slurry Driver.

GROUP 3 - Bituminous Distributor; Bituminous Distributor (1-Man Operation); Tandem Axle.

GROUP 4 - Bituminous Distributor Spray (rear-end oiler); Dumpman; Greaser & truck Servicemen; Tank Truck Helper (Gas, Oil, Road Oil & Water) Teamster and Stableman. Tractor Operator (Wheel Type used for any purpose) Pilot car driver, self-Propelled Packer; Slurry Operator; Single Axle Trucks.

DECISION NO. MN78-2119

MINN-7-TD

TRUCKD RIVERS: SITE PREPARATION, EXCAVATING & INCIDENTIAL PAVING Blue Earth County	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$ 8.62	.40	.50		
GROUP 2	8.32	.40	.50		
GROUP 3	8.22	.40	.50		
GROUP 4	8.02	.40	.50		

GROUP 1 - Driver (Hauling machinery for employer's own use, including operation of hand & power operated winches); Truck train Mechanic, Welder; Tractor-Trailer; Off-Road Truck

GROUP 2 - Tri-axle (including 4-Axles); Dump Dry Batch Hauler; Tank Truck (Gas, Oil, Road Oil & Water); Boom & "A" Frame; Ready Mix Concrete; Slurry Driver.

GROUP 3 - Bituminous Distributor; Bituminous Distributor (1-Man Operation); Tandem Axle.

GROUP 4 - Bituminous Distributor Spray (rear-end oiler); Dumpman; Greaser & truck Servicemen; Tank Truck Helper (Gas, Oil, Road Oil & Water) Teamster and Stableman. Tractor Operator (Wheel Type used for any purpose) Pilot car driver, self-Propelled Packer; Slurry Operator; Single Axle Trucks.

DECISION NO. MN78-2119

MINN-55-TD

SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING Freeborn & Mower Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$ 9.15	.40	.50		
GROUP 2	8.85	.40	.50		
GROUP 3	8.75	.40	.50		
GROUP 4	8.55	.40	.50		

GROUP 1 - Driver (Hauling machinery for employer's own use, including operation of hand & power operated winches); Truck train Mechanic, Welder; Tractor-Trailer; Off-Road Truck

GROUP 2 - Tri-axle (including 4-Axles); Dump Dry Batch Hauler; Tank Truck (Gas, Oil, Road Oil & Water); Boom & "A" Frame; Ready Mix Concrete; Slurry Driver.

GROUP 3 - Bituminous Distributor; Bituminous Distributor (1-Man Operation); Tandem Axle.

GROUP 4 - Bituminous Distributor Spray (rear-end oiler); Dumpman; Greaser & truck Servicemen; Tank Truck Helper (Gas, Oil, Road Oil & Water) Teamster and Stableman. Tractor Operator (Wheel Type used for any purpose) Pilot car driver, self-Propelled Packer; Slurry Operator; Single Axle Trucks.

SUPERSEDEAS DECISION

STATE: South Carolina

COUNTIES: Berkeley, Charleston, & Dorchester

DECISION NUMBER: SC78-1087

DATE: Date of Publication

Supersedes Decision No. SC75-1055 dated May 23, 1975 in 40 FR 22785.

DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING MECHANICS	$7.50				
BOILERMAKERS	9.95	1.05	1.05		.02
BRICKLAYERS	6.54				
CARPENTERS	6.90				
CEMENT MASONS	6.25				
ELECTRICIANS	7.50				
GLAZIERS	4.94				
IRONWORKERS	7.50				
INSULATORS	7.50				
LABORERS, unskilled	3.24				
LATHERS	7.00				
MARBLE SETTERS	3.75				
MILLWRIGHTS	7.50				
PAINTERS:					
Brush	4.00				
Spray	3.89				
PLASTERERS	6.25				
PLUMBERS & PIPEFITTERS	7.50				
ROOFERS	4.52				
SHEET METAL WORKERS	6.08				
SOFT FLOOR LAYERS	4.25				
SPRINKLER FITTERS	8.25	.75	1.05		.08
TILE SETTERS	6.00				
TRUCK DRIVERS	3.57				
WELDERS - Receive rate prescribed for craft performing operation to which welding is incidential.					
POWER EQUIPMENT OPERATORS:					
Backhoes	5.41				
Blade graders	6.75				
Boom trucks	6.35				
Bulldozers	4.00				
Cranes, derricks, & draglines	7.15				
Finishing machines	5.25				
Fork lifts	5.35				
Front end loader	4.32				
Gradalls	6.75				
Mechanics	6.25				

DECISION NO. SC78-1087

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS (cont'd):					
Motor graders	$4.50				
Oilers	5.50				
Piledrivers	6.50				
Scraper-pans	3.45				
Tractors	6.35				
Trenching machines	3.65				

SUPERSEDEAS DECISION

STATE: Virginia
DECISION NO.: 78-VA-3072

COUNTIES: Amelia, Brunswick, Charles City Chesterfield, Dinwiddie, Goochland Hanover, Henrico, Lunenburg, Mecklenburg, New Kent, Nottoway, Powhatan, Prince George and the city of Richmond

DATE: Date of Publication

Supersedes Decision No. AR-2032, dated August 30, 1974, in 39 FR 31871

DESCRIPTION OF WORK: Highway Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASPHALT RAKER	4.11				
CARPENTER, STRUCTURE	5.17				
CARPENTER HELPER, STRUCTURE	4.00				
CONCRETE FINISHER	5.01				
CONCRETE FINISHER HELPER	4.00				
ELECTRICIAN	11.24	5%	3%		4%
FORM SETTER ROAD	4.00				
GUARDRAIL/FENCE ERECTOR	4.00				
IRON WORKER, REINF.	5.43				
IRON WORKER, REINF. HELPER	5.02				
IRON WORKER, STRUCTURAL	9.75	.55	.50		.05
LABORER, UNSKILLED	3.52				
LANDSCAPE WORKER	5.65				
MECHANIC	5.00				
MECHANIC HELPER	4.56				
PAINTER	4:54				
PILE DRIVER LEADSMAN	6.74				
PIPE LAYER	3.95				
SIGN ERECTOR	3.50				
ASPHALT DISTRIBUTOR OPERATOR	4.66				
ASPHALT PAVER OPERATOR	4.43				
BACKHOE OPERATOR	5.11				
BULLDOZER OPERATOR	5.01				
BULLDOZER OPERATOR (UTILITY)	4.67				
CRANE, DERRICK, DRAGLINE OPERATOR (1 YD. & UNDER)	6.02				
CRANE, DERRICK, DRAGLINE OPERATOR (OVER 1 YD.)	6.02				
DRILL OPERATOR	5.62				
FORM GRADER OPERATOR	6.00				
LOADER OPERATOR (2 YDS. & UNDER)	4.68				
LOADER OPERATOR (OVER 2 YDS.)	4.68				
MOTOR GRADER OPERATOR (FINE GRADE)	5.28				
MOTOR GRADER OPERATOR (ROUGH GRADE)	5.28				
PILE DRIVER OPERATOR	5.09				
POWER TOOL OPERATOR	5.83				
ROLLER OPERATOR (ROUGH)	3.85				
ROLLER OPERATOR (FINISH)	4.23				
SCRAPER PAN OPERATOR	4.50				
SHOVEL OPERATOR (1 YD. & UNDER)	5.25				
STABILIZER OPERATOR	4.13				

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
STONE SPREADER OPERATOR	4.50				
TRACTOR OPERATOR (CRAWLER)	3.86				
TRACTOR OPERATOR (UTILITY)	4.50				
TRUCK DRIVER, HEAVY DUTY (7 C.Y. & UNDER)	3.94				
TRUCK DRIVER, HEAVY DUTY (OVER 7 C.Y.)	3.94				
TRUCK DRIVER (MULTI-REAR AXLE)	3.61				
TRUCK DRIVER (SINGLE-REAR AXLE)	3.61				

SUPERSEDEAS DECISION

STATE: Virginia LOCATION: Radford Army Ammunition Plant
DECISION NO.: VA78-3073 DATE: Date of Publication
Supersedes Decision No. VA78-3040 dated May 5, 1978 in 43 FR 19579
DESCRIPTION OF WORK: Building Construction, (does not include single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	9.58	.70	.65		.01
BOILERMAKERS	10.70	1.00	1.00		.02
BRICKLAYERS	8.50				
CARPENTERS	8.20	.35	.30		.02
CEMENT MASONS	5.95				
ELECTRICIANS	9.50	.50	3%		4%
IRONWORKERS:					
STRUCTURAL AND REINFORCING	9.30	.60	.65		.03
LABORERS:					
COMMON LABORERS	5.50	.25	.25		.05
MASON TENDERS	5.60	.25	.25		.05
AIR TOOL OPERATORS	5.75	.25	.25		.05
LATHERS	8.25				
MILLWRIGHTS	10.60	.35	.30		.02
PAINTERS:					
BRUSH	7.55	.35	.30		
SPRAY	7.95	.35	.30		
PLUMBERS AND PIPEFITTERS	9.75	.35	.65	.25	.05
SHEET METAL WORKERS	9.55	.30	.55		.04
SPRINKLER FITTERS	9.48	.65	.95		.08
POWER EQUIPMENT OPERATORS:					
BACKHOE OPERATORS	7.29				
BULLDOZER OPERATORS	9.49	.45	.55	a	.03
CRANE OPERATORS	7.62				
OILERS	4.88				
ROLLERS	7.75	.45	.55	a	.03
PILEDRIVERS	6.32				

FOOTNOTE:
a. Paid Holidays: New Year's Day; Memorial Day; Labor Day; Independence Day; Thanksgiving Day and Christmas Day provided the employee works the regularly scheduled work day before and after the holiday

[FR Doc. 78-28794 Filed 10-12-78; 8:45 am]

FRIDAY, OCTOBER 13, 1978
PART III



federal register

DEPARTMENT OF INTERIOR

Heritage Conservation and Recreation Service

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FLOODPLAIN MANAGEMENT AND WETLANDS PROTECTION

Implementation of Executive Orders 11988 and 11990

PREVIOUSLY PUBLISHED DOCUMENTS

Listed below are other documents on implementation of Executive Orders 11988 and 11990 previously published in the FEDERAL REGISTER:

Agency	1978 Date of Issue	Vol. 43 FR, Page No.
Interior Department, Bureau of Land Management	Sept. 28	44798
Commerce Department, Office of the Secretary	Sept. 29	45284
Transportation Department, Office of the Secretary	Sept. 29	45285
Nuclear Regulatory Commission	Oct. 6	46499

[4310-03-M]

DEPARTMENT OF THE INTERIOR

Heritage Conservation and Recreation Service

FLOODPLAINS AND WETLANDS EXECUTIVE ORDERS

Availability for Public Comment on Heritage Conservation and Recreation Service Procedures for Implementation

AGENCY: Heritage Conservation and Recreation Service, Department of the Interior.

ACTION: Draft procedures.

SUMMARY: The Heritage Conservation and Recreation Service is making available for public review and comment the procedures it proposes to use to implement Executive order 11988, Floodplain Management, and Executive Order 11990, Protection of Wetlands.

DATE: Comments or suggestions should be submitted in writing no later than November 13, 1978.

ADDRESS: All comments should be sent to the Heritage Conservation and Recreation Service, U.S. Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Mr. Louis E. Reid, Jr., Chief, Office of Environmental Affairs, Heritage Conservation and Recreation Service, Washington, D.C. 20240, phone 202-343-5711.

SUPPLEMENTARY INFORMATION: In furtherance of the National Environmental Policy Act of 1969, as amended, the National Flood Insurance Act of 1968, as amended, and the Flood Disaster Protection Act of 1973, in order to avoid to the extent possible the long-and short-term adverse impacts associated with the occupancy and modification of the floodplain and to avoid direct or indirect support of floodplain development wherever there is a practicable alternative, the Heritage Conservation and Recreation Service shall provide leadership and shall take action to reduce the risk of flood loss to minimize the impact of floods on human safety, health and welfare, and to restore and preserve the natural and beneficial values served by floodplains in carrying out its responsibilities for (1) acquiring and disposing of Federal lands and facilities, (2) providing federally financed or assisted construction and improvements; and (3) conducting Federal activities and programs affecting land use, including but not limited to water and related resource planning.

Executive Order 11988, Floodplain Management, affirmed that it is administration policy to protect and enhance the natural and beneficial values of floodplains and actively to discourage noncompatible development. Executive Order 11990, Protection of Wetlands, recognized that the Nation's remaining wetlands are a valuable national resource. All Federal agencies must take all appropriate actions to avoid direct or indirect support of new construction in wetlands wherever there is a practical alternative.

The U.S. Water Resources Council's Floodplain Management Guidelines for implementing E.O. 11988 (43 FR 6030, Feb. 10, 1978) provide basic implementation guidelines. The Heritage Conservation and Recreation Service's draft procedures, based on the Department of the Interior's draft procedures, apply the Water Resources Council's guidelines to various Heritage Conservation and Recreation Service programs. A proposed Directive described in this notice will guide the agency's employees in assuring that their actions further the intent and purpose of both Presidential Executive Orders.

The notice also contains draft changes to be made in existing Heritage Conservation and Recreation Service manuals and other operational guidelines.

HERITAGE CONSERVATION AND RECREATION SERVICE COMPLIANCE WITH EXECUTIVE ORDERS 11988 (FLOODPLAIN MANAGEMENT) AND 11990 (PROTECTION OF WETLANDS)

The Heritage Conservation and Recreation Service (HCRS) has examined its procedures, regulations, and policies as required by Executive Orders 11988 and 11990. The following actions are being taken to assure that all of the agency's actions are in compliance with these orders.

1. A Directive implementing the guidelines will be issued in November by the Director of HCRS and sent to all HCRS offices.

This will require essentially similar treatment for the proposed actions in floodplains or wetlands and will state that:

a. It is the policy of the Heritage Conservation and Recreation Service to insure that its recreation, historic, archeological, and architectural projects are compatible with preservation and restoration of the natural and beneficial values of floodplains and wetlands. Whenever there is a reasonable alternative, the Agency will not undertake, support, or permit activities under its authorities that would cause adverse impacts on the natural or beneficial values of floodplains or wetlands.

b. The planning concepts outlined in Part II—Decisonmaking Process of the U.S. Water Resources Council's Floodplain Management Guidelines (43 FR 6030, Feb. 10, 1978)—will be used in planning all Heritage Conservation and Recreation Service activities affecting floodplains and wetlands.

C. Environmental Assessments or Environmental Impact Statements are to be prepared for all actions proposed in floodplains or wetlands. These will state direct and indirect impacts of the actions on floodplains and wetlands and the alternatives considered. The Environmental Assessments or Environmental Impact Statements for activities or elements of activities which will result in construction in a floodplain or wetland, or otherwise affect their natural or beneficial values, will also state the degree of risk to the public investment, safety, and whether or not an alternate location or course of action could accomplish the proposed objectives. Where applicable, the assessment or statement will outline steps to be taken to minimize harm to existing facilities and to the natural and beneficial values of floodplains or wetlands.

d. Rehabilitation of idle structures and rehabilitation projects incorporating significant enlargements that will result in changes in existing natural values associated with the wetland or floodplain area require compliance with the guidelines (this includes all historic preservation projects and some Land and Water Conservation Fund projects). This requirement is not applicable to normal maintenance.

e. The Heritage Conservation and Recreation Service will prepare and circulate notices of intent to conduct, support, or allow actions in floodplains or wetlands, or cause such notices to be prepared and circulated. The notice will (1) explain concisely why the proposed action is to be taken in a floodplain or wetland, (2) provide a list of expected environmental impacts of the action as a part of a brief summary of the environmental effects, (3) state that the action conforms to applicable State and local floodplain and wetland protection standards and to the requirements of Executive Orders 11988 and 11990, and (4) provide a simple location map. The notice also must state where the environmental assessment and additional information on the project are available for inspection or can be obtained. The notice must not exceed three pages in length; it also will serve as the notice for A-95 clearinghouses.

When circulation of the notices results in receipt of adverse comments, HCRS will send copies of the notices, statements of findings, and NEPA documents on the proposed activities to the office of the following agencies

nearest the site of the proposed action: Environmental Protection Agency; Federal Insurance Administration; U.S. Geological Survey; Bureau of Reclamation (western States only); Corps of Engineers; soil Conservation Service; and the Fish and Wildlife Service.

f. both Executive Orders require that public comments be solicited for all projects. They state that opportunity must be provided "* * * for early public review of any plans or proposals for actions * * * whose impact is not significant enough to require the preparation of an environmental impact statement * * *." Similar public involvement is necessary, of course, when an environmental impact statement is required. forthright solicitation of suggestions and comments from the public is necessary. In cases where proposed development is in accordance with plans which have already undergone documented public review, the requirement may be considered to have been fulfilled. A sound public information effort might still be worthwhile, especially when considerable time has elapsed since approval of plans. Public information programs in these circumstances will be conducted at the option of offices originating the proposed actions. In all cases, press releases will be prepared for local dissemination. These will describe the proposed action and urge the public to provide its views to the Heritage Conservation and Recreation Service or the project sponsor. The press release also may be sent to nearby local governmental bodies, adjacent property owners, and other concerned individuals and organizations such as Federal agencies, State agencies, conservation groups, farm and taxpayer organizations, and historic and preservation organizations.

For projects where substantial citizen interest is expected, a public meeting should be considered during the early planning stage to allow a full discussion of the issues. Environmental documentation must be made available for the public meeting if one is to be held. A record of public information efforts and a summary of comments received must be maintained in the project files. the office originating and/or approving the proposed action will determine whether the public concern is substantial enough to warrant convening a public meeting.

g. Requests for new authorizations or appropriations for proposals in or potentially affecting floodplains or wetlands must be justified by a statement that the proposals comply with the intent of the Executive Orders.

h Step 7, Part II, of the Water Resources Council Guidelines describes the process for issuing statements of findings and explains to the public why projects will, after consideration of alternatives, be located in floodplains. Final project documents must identify actions the Heritage Conservation and Recreation Service proposes to undertake. The Statement of Findings can be included in final environmental impact statements or in findings of no significant impact.

i. any new legislative mandates which are issued to the Service will be reviewed and analyzed for compliance with the Executive Orders. Floodplain Management and Protection of Wetlands principles will be made part of any new programs that are applicable.

j. In accordance with the documentation requirements of the Executive Orders, the various Service programs affecting Floodplans and/or Wetlands must include provisions for keeping records on any project located in the floodplain or wetland. Most important is the type of project and the number of acres affected.

k. When questions or problems arise concerning a project to be located in a floodplain or wetland, it is HCRS policy to consult with WRC, CEQ, FIA, COE or other government agency with expertise concerning the subject.

2. Section 660.2.3(H)(2) of the Outdoor Recreation Grants-in-Aid Manual used by the States when applying for Land and Water Conservation Fund assistance will be amended to read:

a. All projects must comply with the intent of Executive Order 11988, Floodplain Management, and 11990, Protection of Wetlands, and with the U.S. Water Resources Council's Floodplain Management Guidelines for implementing E.O. 11988 (43 FR 6030, February 10, 1978).

b. The environmental assessment for all development projects must state whether or not there will be an impact on floodplains or wetlands.

c. Direct or indirect Fund support of floodplain development or of new construction in wetlands should be avoided when there is an adverse impact on the natural and beneficial values and practicable alternatives exist. This also includes the rehabilitation of idle structures or significant enlargement of existing facilities. Normal maintenance and rehabilitation of functioning structures or facilities are not included.

d. When activities must be carried out in a floodplain or wetland, the work must be done in a manner which, to the extent possible, will reduce the risk of flood loss in a floodplain, minimize the destruction or degradation of wetlands, and preserve and enhance their natural and beneficial fish and wildlife values.

e. Acquisition projects for the future establishment of facilities which do not impede floodwaters or disturb wetlands are normally consistent with the intent of the Executive Orders and are excluded from these procedures. However, these procedures will apply to acquisition projects for future development which may have an adverse effect on the natural and beneficial values of the floodplain or wetland.

f. the environmental documentation shall include:

(1) The extent of the direct and indirect impacts.

(2) Measures to be taken to minimize the adverse impacts.

(3) alternative actions and locations considered in the event of an adverse impact.

(4) Acknowledgement that all State and local floodplain and wetland regulations and standards are being met.

g. The project sponsor shall insure that the general public has an opportunity for early review of the development plans or proposals for actions affecting floodplains or wetlands. In all cases, a press notice will be published in the local media briefly describing the proposed action and urging members of the public to provide their views to the project sponsor. it shall expressly state that the proposed site is in a floodplain or wetland.

h. The project sponsor or the State shall include a copy of the press notice and public comments received, the Notice of Intent, and the proposed environmental assessment with the project information submitted to A-95 clearinghouses for review. In addition to (f) above, the assessment shall explain why the proposed action is to be taken in the floodplain or wetland and include a simple location map.

i. When adverse comments have been received as a result of the A-95 review process or early public review, the HCRS Regional Office will forward copies of all notices and NEPA documents to the Regional or Field Offices of the Federal agencies noted above.

j. The Service's Step 7 Statement of Findings will be incorporated into the EIS or negative declaration by the Regional Office when alternative actions have been considered during project review.

k. State Comprehensive Outdoor Recreation Plans must address the requirements and goals of the Floodplains and Wetlands Executive Orders (Section 630 of the G-I-A Manual).

3. Subject to regulations to be issued by the General Services Administration respecting the disposal of Federal real property and implementation of E.O. 11988 and 11990, Program Directive 120-1-1 is proposed to be added to the Surplus Property Handbook and application instructions related to P.L. 91-485 and amending the Federal Property Act.

It will state that:

a. All surplus property applications must comply with the intent of Executive Order 11988, Floodplain Management, and 11990, Protection of Wetlands, and with the U.S. Water Resources Council's Floodplain Management Guidelines for implementing E.O. 11988 (43 FR 6030, February 10, 1978).

b. The environmental assessment for all development proposals must state whether or not there will be an impact on floodplains or wetlands.

c. Proposed developments and/or construction in wetlands should be avoided when there is an adverse impact on the natural environment and beneficial values and practicable alternatives exist. This also includes the rehabilitation of idle structures or significant enlargement of existing facilities. Normal maintenance and rehabilitation of functioning structures or facilities are not included.

d. When activities must be carried out in a floodplain or wetland, the work must be done in a manner which, to the extent possible, will reduce the risk of flood loss in a floodplain, minimize the destruction or degradation of wetlands, and preserve and enhance their natural and beneficial fish and wildlife values.

e. Applications to acquire Surplus Property for passive recreational facilities normally are consistent with the intent of the Executive Orders and are excluded from these procedures.

f. The environmental documentation shall include:

(1) The extent of the direct and indirect impacts.

(2) Measures to be taken to minimize the adverse impacts.

(3) Alternative actions and locations considered in the event of an adverse impact.

(4) Acknowledgement that all State and local floodplain and wetland regulations and standards are being met.

g. The project sponsor shall insure that the general public has an opportunity for early review of the development plans or proposals for actions affecting floodplains or wetlands. In all cases, a press notice will be published in the local media briefly describing the proposed action and urging members of the public to provide its views to the project sponsor.

h. The applicant shall include a copy of the proposed environmental assessment with the application submitted to the appropriate Regional Office for review and approval prior to the Service's request for assignment of the property from the General Services Administration. In addition to (e) above, the assessment shall explain why the proposed development is to be located in the floodplain or wetland and shall include a simple location map.

i. When the General Services Administration provides the Service with adverse comments received as a result of the A-95 review process or early public reviews, the HCRS Regional Office will forward copies of all notices and NEPA documents to the Regional or Field Offices of the following Federal agencies: Environmental Protection Agency, Federal Insurance Administration; U.S. Geological Survey; Bureau of Reclamation (western states only); Corps of Engineers; Soil Conservation Service; and the Fish and Wildlife Service.

j. The Service's findings will be forwarded to the appropriate GSA Regional Office for incorporation into Environmental Impact Statements, assessments, or statements of no significant findings by the GSA Regional Office when alternative actions have been considered during the project review.

4. Except where extreme conditions dictate otherwise, the HCRS Division of Resource Area Studies will recommend measures which protect, restore and/or enhance the recreation, natural, and cultural values which floodplains and wetlands offer. The Division of Resource Area Studies will not recommend support or approve of actions which will impact floodplains and wetlands adversely except where there is no practical alternative.

Relevant programs and interests under the purview of the Resource Area Studies Division include natural area studies and involve plans, reports, and recommendations stemming from such studies and the review of reports, projects, and recommendations of other studies which the Division comments upon or which it assists in preparing.

LOUIS E. REID, JR.,
Chief, Office of Environmental Affairs.

[FR Doc. 78-29177 Filed 10-12-78; 8:45 am]

federal register

FRIDAY, OCTOBER 13, 1978
PART IV



DEPARTMENT OF LABOR

Mine Safety and Health Administration

HEALTH AND SAFETY TRAINING AND RETRAINING OF MINERS

Final Rules

[4510-43-M]

Title 30—Mineral Resources

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

SUBCHAPTER H—EDUCATION AND TRAINING

PART 48—HEALTH AND SAFETY TRAINING AND RETRAINING OF MINERS

Final Rule

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

ACTION: Final rule.

SUMMARY: Section 115 of the Federal Mine Safety and Health Act of 1977 (Mine Act) requires each mine operator to have a health and safety training program for miners, which must be approved by the Secretary of Labor (Secretary), and requires the Secretary to publish rules governing such programs. These rules implement section 115 (a), (b) and (c) of the Mine Act by setting forth the requirements for obtaining approval of training programs and specifying the kinds of training, including refresher and hazard training, which must be provided to miners. These rules are intended to insure that miners will be effectively trained in matters affecting their health and safety, with the ultimate goal of reducing the frequency and severity of injuries in the Nation's mines.

EFFECTIVE DATE: October 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Harry L. Schell, Office of Education and Training, Room 514, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Va. 22203, 703-235-1515.

SUPPLEMENTARY INFORMATION:

STATUTORY AND RULEMAKING BACKGROUND

The Mine Act, Pub. L. 91-173, as amended by Pub. L. 95-164, applies to coal, metal, and nonmetal mines. The Secretary is responsible under section 115(a) of the Mine Act for promulgating regulations with respect to health and safety training programs for miners. The Secretary has therefore established a new subchapter H of chapter I of title 30 CFR containing this new part 48.

An advisory committee was established in accordance with sections 101 and 102(c) of the Mine Act in order to assist the Secretary in the development of the proposed rules on mine health and safety training. The committee held two series of meetings in March and April 1978 in which the public participated, and submitted recommendations to the Secretary. The proposed rules, which adopted with a few changes the advisory committee's recommendations, appeared in 43 FR 30990-30999 (July 18, 1978) and a correction of the proposed rules appeared in 43 FR 34504-34505 (August 4, 1978). Interested persons were given an opportunity to submit comments until August 23, 1978, and were notified that hearings would be held on the proposed rules. The hearings were held in Charleston, W. Va., St. Louis, Mo., and Phoenix, Ariz., on August 14, 16, and 18, 1978, respectively. A total of 86 witnesses presented testimony. In addition, the Mine Safety and Health Administration (MSHA) has received and reviewed over 240 written comments and statements from interested persons.

DISCUSSION OF COMMENTS AND CHANGES

1. *General discussion.* The predominant concern expressed by the mining industries, particularly the metal and nonmetal industries, in testimony and written comments, was that the proposed rules, if adopted and applied, would be extremely burdensome and costly to implement, forcing many small operations to curtail production during training periods or go out of business altogether, and resulting in substantial increases in the prices of mined materials. A related concern was that the rules, as proposed, were neither tailored to fit the needs of the various types of mining operations nor flexible enough to be adaptable to those needs.

The first year costs of the training requirements contained in the Mine Act and these final rules will total approximately $125 million for all mining industries. A discussion of economic issues is contained under the heading "Economic Analysis" in this preamble. Congress recognized that "miner training may strain the financial resources of many small operators." Conference Report No. 95-461, 95th Cong., 1st sess. 63 (1977). To help alleviate this burden, Congress directed the Secretary "to maintain a flexible approach in approving * * * training programs * * *." Conference Report No. 95-461, supra at 63.

In keeping with this mandate, the mining industries can be assured that MSHA will make every effort to be flexible in carrying out its responsibilities with respect to training in order to be as responsive as possible to the needs and circumstances of the various segments of the mining community and of individual operators. Several of the changes made in these final rules reflect that intention.

There was also concern expressed that, in attempting to comply with the date Congress established in section 114 of the Mine Act for publication of the final rules, MSHA would not be able to review and consider thoroughly the testimony and comments received on this important proposal. MSHA has a fundamental responsibility to comply with this congressional directive to the maximum extent feasible without compromising the basic objective of the rulemaking process, which is to develop and implement rules which have a rational basis, are effective and are responsive to the concerns of the affected public. MSHA believes that this balance has been achieved in these rules; it has studied the public response carefully and appropriate changes have been made.

However, MSHA wishes to emphasize that it is sensitive to the uncertainty and anxiety with which these new training requirements are being met. As experience is gained under the program, changes in these rules and in the procedures MSHA uses to implement them may prove to be desirable or even necessary. Therefore, MSHA encourages continued public response on these matters in order to assess the need for possible revisions and to provide the most effective training to the Nation's miners without unduly burdening the affected industries.

2. DISCUSSION OF MAJOR ISSUES

a. *Definition of "miner."* The most frequently raised criticism of the proposed rules was that the definition of the term "miner" was too broad and vague and that coverage under these rules should be more precisely drawn. MSHA agrees. The language in the proposed rule which would have included "any person whose duties require" either being underground in subpart A or the person's presence at the mine in subpart B has been eliminated.

(i) Subpart b—surface mines and surface areas of underground mines. With respect to surface operations, MSHA generally agrees with the comments suggesting that only those workers who are regularly exposed to the many hazards associated with the mining industry need receive the full range of training. It is those workers who Congress sought to insure would be fully apprised of those hazards and familiarized with safe work practices at the time work duties begin. Accordingly, the final rule requires that, in addition to those workers actually performing extraction or production functions, most maintenance and service workers and workers whose duties require a substantial presence at those locations in the mine where extraction or production occurs and who are thereby exposed on a frequent basis to the risks at those areas should also receive the comprehensive training set

forth in the rules. Such workers would include, for example, dragline oilers and haulage workers transporting minerals from the pit areas through preparation stages to storage facilities.

The proposed rule excluded "nonproduction and nonmaintenance personnel" from the definition of "miner" in § 48.22(a). In reappraising the definition based upon the comments received, MSHA has determined that certain changes are appropriate with respect to the proposed exclusion. While only those persons most directly and regularly exposed to mining hazards need to undergo comprehensive training, other workers at the mine, such as scientific, office, or delivery personnel, either employed or contracted by the operator, or short term maintenance or service personnel contracted by the operator are exposed to certain mine hazards on a less regular basis in performing duties ancillary to or supportive of extraction or production. Such workers, if not given any training, could expose not only themselves but other miners to unnecessary risks. These workers should, therefore, have periodic instruction concerning the hazards they may encounter from time to time at the extraction or production site. Accordingly, MSHA has added sections to subpart B which would require the operator to acquaint such individuals with the specific hazards they may confront at the mine. It is contemplated that this should not generally require classroom instruction and may often consist of an instructional sheet distributed to the worker containing a "checklist" of hazards. It may be that certain workers in these categories, depending on the nature and location of their duties, are exposed to no significant mining hazards at a particular mine. Examples might include the person who refills the vending machines or certain clerical employees. However, MSHA expects a realistic appraisal by the operator of the hazards associated with such jobs. The operator should certify that such workers have received this instruction and should include the proposed method for providing this instruction in the training plan.

Also subject to this type of hazard training under these final rules are students who are not purely short-term visitors but whose work may require their presence at the mine for more than one day for the purpose of fulfilling academic or professional requirements. Such projects might include geological studies conducted by geology students or the development of a reclamation plan by landscape architecture students. These types of projects require the student to spend some time at the mine site to collect information. Such a person should be instructed in the hazards he or she may confront or present to others while on mine property.

Confusion was also expressed concerning the status of visitors to the mine, such as corporate or government officials, or students on a field trip. These types of persons are not covered by these rules. However, it is expected and the comments and testimony reflect that such persons will be accompanied by experienced miners and will be provided appropriate safety equipment.

Many commenters suggested that other categories of mine workers, such as short-term workers, seasonal workers, and vacation student workers be exempted from the surface training requirements. These workers are exposed to the same hazards, present the same hazards and need the same training as other similarly situated "long-term" workers. The need for training is usually not diminished, and may, in fact, be increased because such workers are slated for a short work tenure. Accordingly, short-term workers should generally receive the same training as other miners, with the exceptions discussed above.

(ii) Subpart A—underground mines. MSHA generally believes that the same distinctions discussed above with respect to the training of surface miners are also applicable to underground miners. For example, those engaged in the extraction or production process are required to undergo the comprehensive training prescribed in §§ 48.5 through 48.8, as applicable. Mine personnel, such as office personnel, who are not regularly exposed to mining hazards and who may go underground during the course of their duties are required to have periodic instruction concerning the hazards they may encounter and must, in addition, be accompanied at all times while underground by an experienced miner. Accompaniment is believed to be necessary because of the more hazardous conditions which generally exist in underground mines. Although visitors are not, per se, covered under these rules, it is likewise expected that such persons will be provided with and given instruction in the use of appropriate safety equipment and will be accompained at all times while underground by an experienced miner.

(iii) Training of nonemployees. Mining industry representatives contended that an operator should not be responsible for training workers who are not employed by the operator. Nothing in the Mine Act removes from the operator the primary responsibility for the health and safety of all miners on mine property. The operator has control not only over his own employees but, either directly or indirectly, over those with whom he contracts and allows to perform work on mine property. The operator remains ultimately responsible for, and is the beneficiary of all work done at the mine. Moreover, in the specific area of training, an operator can best assure that all miners working at his mine receive systematic training consistent with the health and safety needs and conditions existing at the mine. Accordingly, except with respect to those independent contractors that may be identified as operators under rules currently being developed, operators will be primarily responsible for training workers on mine property.

A somewhat unique problem exists with certain specialized contract production and extraction workers, particularly drillers and blasters, who come onto mine property for short duration to perform their tasks and then move to other sites. Since these workers are unquestionably engaged in the extraction process, they would ordinarily be subject to the full training requirements of §§ 48.5 through 48.8 or §§ 48.25 through 48.28. MSHA believes such workers should be subject to "new miner" training if they are inexperienced or to "new task" training if they are new to the specialty. However, it would not serve any useful purpose to require such individuals to undergo newly employed experienced miner training each time they go to a new job for a few days. They are skilled at their particular tasks and need only be acquainted with the specific hazards they may encounter at the mine site. Accordingly, they will be required to take only hazard training, discussed previously. However, it will be necessary for this category of worker to take annual refresher training, at least with respect to those subjects which are not mine-specific, such as first aid.

b. *Full training of new miners prior to commencement of work duties.* There was strong opposition from the nonmetal mining industry concerning the requirement in the proposed rule that the 24 hours of new miner training under subpart B must all be given prior to the commencement of job duties. There was very little resistance to an identical provision with respect to the 40-hour inexperienced miner training requirement for underground mines. The comments came primarily from and on behalf of smaller surface operations for whom this requirement would work particular hardship due to the inability to hire or spare employees for training purposes and the often high employee turnover rates. MSHA is sensitive to the economic hardships that many provisions of the Mine Act may have upon small operators and seeks to be responsive to the congressional directive to minimize

the adverse impact of the training requirements.

The testimony and comments received on this issue focus almost exclusively on the adverse economic impact of this requirement rather than the effect a change in the proposed requirement might have upon health and safety of new miners. MSHA remains convinced that in most cases, the health and safety of miners is best served by requiring the inexperienced miner to be fully trained in the subjects delineated in the rules prior to commencing job duties. However, in response to the genuine concern expressed in the record by small surface mine operators, the final rules have been changed so that MSHA may permit, in appropriate cases, as determined by the Training Center Chief, new surface miners to receive up to 16 hours of training within 60 days after assignment to work duties: *Provided*, That at least 8 hours of training is furnished prior to the commencement of work duties. In such cases, to insure that the miner is familiarized with the job environment and associated hazards the initial 8 hours of training shall include the following courses: Hazard recognition, introduction to work environment, and health and safety aspects of the tasks the new miner will be assigned. In addition, until the new miners affected by this provision have received the full 24 hours of training, they must always work under the close supervision of an experienced miner. An operator must submit a request to the training center as part of the proposed training plan in order to be permitted to take advantage of this exception to the usual rule. The training center will consider such factors as the size and the safety record of the mine and the rate of employee turnover at the mine.

c. *MSHA-approved instructors.* Many commenters questioned the necessity for having instructors approved by MSHA. Instead, it was suggested that a "competent person" be required to give the instruction for purposes of training new miners, training newly employed experienced miners, and providing annual refresher training for all miners.

MSHA believes that is is essential for a person who is going to be responsible for instructing miners concerning the health and safety aspects of their jobs to be highly qualified, not only in the particular subject matter he or she proposes to teach, but in the skills an instructor must have in order to teach that subject effectively. The testimony and comments have not persuaded MSHA that there is an acceptable alternative method to insure that those goals are met, and these rules retain the requirement for MSHA approval of instructors.

The comments reflect a great deal of concern and confusion about how instructors will be approved and whether MSHA has the capabilities to insure timely training of instructors. MSHA is making every effort to provide a flexible system of instructor approval in order to meet the expected demand.

There are two basic types of instructor courses offered by MSHA. One will enable an individual to train miners. The other will enable an individual to be approved by MSHA to train other instructors, who will then be able to train miners but not additional instructors. For example, an industry association in a State could make arrangements for a certain number of individuals to receive instructor training and approval from MSHA. These persons would then be able to return to their State to give instructor training to skilled persons in particular subject matter areas, e.g., electrical. These skilled individuals could then write to MSHA, describing their experience in the particular subject matter and provide proof of having received instructor training. Based upon this submission, these persons would be approved by MSHA to provide training of miners under these rules.

It may also be possible for an instructor to receive approval by requesting MSHA to have a representative attend classes of a prospective instructor and provide approval based upon performance at the classes. Such a request should be made a part of the operator's proposed training plan. MSHA's resources do not permit the frequent use of this method of approval. Therefore, the operator should demonstrate, based upon such factors as the size of the mine, remoteness from a training center, and other relevant considerations, that utilizing other methods of instructor approval would work an extreme hardship on the operator. Utilization of this method of instructor approval will be at the discretion of the training center.

In addition, if a person already has taught courses or given health and safety workshops or seminars or has other comparable experience, it may not be necessary to take the MSHA instructor training course. Such a person may receive approval based solely on qualifications and teaching experience.

d. *Submission of proposed plan to miners' representatives.* Many comments were received objecting to the inclusion of the miners' representative as the recipient of an operator's proposed training plan 2 weeks prior to submission to the Training Center Chief for approval, and the participation of the miners' representatives in consultations over required revisions of the training plan. Congress recognized that an active participation by MSHA, the operator, and the miner were necessary to maximize the health and safety benefit derived from the mandated training program. Numerous references to the "representative of miners" throughout the Mine Act evidence the importance of involving the miner in all aspects of mine health and safety. Nowhere does the Mine Act either explicitly or implicitly limit the participation of the representative of miners only to the enumerated situations in the Act. A miner's intimate knowledge of health and safety conditions at his particular mine, and his instinctive concern for his fellow miners, make the representative of miners an ideal resource in the formulation of an effective training plan. Indeed, MSHA would be remiss in attempting to fulfill its statutory obligation to insure that the training plan submitted by the operator would afford adequate training to miners if it failed to include the representative of miners in the approval process.

3. DISCUSSION OF OTHER SIGNIFICANT ISSUES

a. *Course requirements.* Commenters expressed concern that the language of the proposed rules appeared to require all operations, including milling or other production facilities covered by the Mine Act, to give instruction in all of the delineated courses even if some of the courses are not applicable to conditions at the mine. This was not intended and clarifying changes have been made. Most of the courses enumerated will generally be applicable to most mining operations. However, MSHA does not expect workers engaged solely in milling operations, for example, to be trained in highwall and ground control plans. The operator needs only to include in the proposed training plan those courses which are relevant to conditions at the site and should add those courses, not outlined in the rules, which would be important for the workers at the facility involved. MSHA intends to adopt a practical approach to course requirements.

b. *Coverage of the rules.* These rules are applicable to all facilities which are covered under the Mine Act. MSHA does not have the authority to exempt or exclude operations otherwise covered by the Act from the training requirements. Thus, milling, dredging, and clay winning operations are subject to these requirements. MSHA is aware that the scope of the Mine Act and these rules is broad and that each type of operation may have unique safety and health problems. MSHA encourages operators to contact MSHA's training centers in order to discuss the type of operations involved and the type of training program which may be appropriate to

meet the needs of the workers at that operation.

c. *New task training.* Questions were raised in the record about whether the training required for miners assigned new tasks (§§ 48.7, 48.27) could be incorporated into the 24 hours of new miner training or whether new miners are required to take new task training in addition to new miner training before commencing work assignments. The proposed rules discussed miners "assigned" to new tasks. In reviewing the Mine Act and the legislative history, MSHA has determined that, in the words of section 115 of the Mine Act, Congress was seeking to cover miners who are "reassigned" new tasks. The intent is to provide task training for experienced miners who are undertaking a new task assignment. Therefore, new task training is not a part of new miner training and does not have to be provided to new miners who are receiving the 24 hours of initial training. Under §§ 48.5(b)(13) and 48.25(b)(12), new miners will receive training in the health and safety aspects of their initially assigned tasks as part of the new miner training. Only if those miners are subsequently assigned to a new task do they have to take new task training.

d. *Certificate of training.* Commenters stated that MSHA should provide the certificates to be given to the trainee upon completion of training, and that miners who receive the training, as well as operators, should acknowledge the completion of the training course on the certificate. Although MSHA intends to supply the certification forms and will distribute them to MSHA field offices and operators as soon as the Government clearance process has been completed, it is the operator's statutory obligation to certify completion of the training on the forms. MSHA also believes that it is advisable, both for the protection of the miner as well as the operator, for the miner to sign the certificate.

e. *Approval of phases of the training plan.* Several complaints were voiced concerning the provisions of the proposed rule which would permit MSHA to approve "separate phases of the training program and withold approval of other phases * * *" (§§ 48.3(h)(2), 48.23(h) (2)). Commenters argued that the piecemeal approach to plan approval suggested by this language would result in chaotic and cumbersome implementation by an operator. The purpose of this provision is to provide MSHA with the flexibility to approve a major "phase" of the plan, referred to in the final rules as a "program," such as new task training or new miner training, even if there is a problem with another major "phase" or "program" such as annual refresher training. Each of these major programs of an operator's plan is discrete enough in application to be approved separately, if necessary, without disrupting the operator's overall training effort. MSHA does not believe that, under the circumstances, training under approved major programs of the plan should be delayed pending approval of the entire plan. MSHA does not intend to approve plans in phases except under the limited conditions just described. The proposed rule is therefore adopted with the nomenclature changes just discussed.

f. *Annual submission of refresher training schedule.* Sections 48.3(c)(7) and 48.23(c)(7) of the proposed rules would have required the annual submission of a "schedule" of refresher training information. It was argued by commenters that to require such annual reporting was administratively burdensome and that it would be extremely difficult to pinpoint from year to year precisely when refresher training might be given. MSHA agrees that it is important to maintain a flexible approach to refresher training in order that it might be offered at particularly appropriate times to be of maximum benefit. It is therefore unnecessary to submit the plan annually if no changes are being proposed. Under §§ 48.3(1) and 48.23(1), operators must notify MSHA and the representative of miners of proposed modifications in the refresher training schedule. In order to permit training center personnel to monitor all training classes, under §§ 48.3(e) and 48.23(e) operators must provide MSHA, upon request, with the times upcoming training classes are scheduled to be given.

g. *Reimbursement for costs of attending training.* Several commenters objected to provisions of proposed §§ 48.10 and 48.30 concerning compensation of miners for costs incurred if training is given somewhere other than the normal work site. MSHA agrees that the proposed language neither took into account certain possible alternative methods of transporting workers nor adequately reflected the provisions of section 115(b) of the Mine Act. Therefore, the final rule uses the language of the statutory provision and requires miners to be compensated for all actual "additional costs they may incur" in attending training sessions away from their work site.

h. *Explosives.* Commenters argued that the requirement in the proposed rules to have all miners receive instruction in the "handling of explosives" would actually have an adverse effect on the safety of the miners and would also be contrary to the practices of operators in the industry, who only allow handling of explosives by persons with specialized training in the handling and use of explosives. While all miners should receive a review of the hazards related to explosives, as required in §§ 48.5(b)(9), 48.8(b)(9), 48.25(b)(11) and 48.28(b)(9), MSHA agrees that "instruction in the procedures for the safe handling of explosives" should only be given to miners assigned to handle or use explosives. Therefore, this phrase has been deleted from the final rule.

Miners assigned to handle or use explosives will receive safety and health training for such assignments in new miner training and new task training, as applicable. Moreover this comports with the operator's responsibility of assuring that persons handling explosives are experienced or under the supervision of experienced persons and understand the hazards involved, and that explosives are used in a permissible manner, in accordance with §§ 15.19, 15.24 (note), 55.6-90, 56.6-90, 57.6-90, 75.1303 and 77.1303(a) of Title 30, Code of Federal Regulations.

MSHA emphasizes that the handling of explosives means the physical contact with explosives in any way, and includes the loading and unloading of explosives from vehicles, and the hauling of explosives from location to location at the mine site.

i. *Content of miners' rights course.* Several commenters were uncertain over the content of the course covering miners' rights. MSHA is providing and will continue to provide assistance in the development of a course that will deal with the statutory rights of miners. This course will be available to the operator and instructors and provide them with the content necessary to teach the course and provide sufficient information to the miners. In addition, MSHA's Office of Information is also in the process of developing a pamphlet dealing with the same subject.

Through both of these sources and through others who may develop materials on the same subject, MSHA believes that adequate information will be provided for clarification of course content. This does not, however, preclude the operator from developing his own materials should he feel the need to do so.

j. *Hazard recognition training.* Several commenters have suggested that the word "known" be inserted before course titles such as "hazard recognition" and "electrical hazards" because of possible legal repercussions that may result from such an omission. MSHA agrees that the courses should include known hazards at the mine. However, such courses should also include training in the recognition and avoidance of possible hazards beyond those that may have actually resulted in accidents or are obvious. Instruction should also be given with respect to

potential hazards which are reasonably foreseeable under the circumstances at the mine. The scope of this type of instruction can be discussed with MSHA training center personnel in order to arrive at what it is reasonable to teach.

k. *Construction occuring underground.* It was suggested that the exclusion of workers engaged in the "sinking of slopes and shafts" should cover not only the actual construction of the slope or shaft itself, but the installation in the completed slope or shaft of such things as belts, track, hoists, loading equipment or other machinery prior to the time the mine is operational. This would mean that coverage under subpart A would be limited to the construction or repair of underground facilities while the mine is operational and the normal hazards associated with an operating mine are encountered. MSHA agrees that construction of facilities in the slope or shaft prior to commencing operations and the construction of major additions or facilities to an existing mine which require the mine to cease operations, should be covered under the same rules which govern construction workers generally. The training of most construction workers will be the subject of future rulemaking and this rule has been changed accordingly to cover only underground construction occuring while the mine is in operation.

l. *Revocation of instructors' approval.* A few commenters urged that due process protection be afforded an instructor when MSHA intends to revoke the instructor's approval. The proposed regulations provided that approval could only be revoked "for cause" and thereby contemplated protection, including administrative appeal, from arbitrary agency action. However, recognizing that personal livelihood and significant property interests may be at issue, the final rule has been changed to expressly provide that instructors are entitled to a statement of agency reasons for intended revocation and an opportunity to demonstrate or achieve compliance before any revocation of approval is effective. Moreover, initial decisions to revoke approvals may be appealed to the Director of Education and Training. Such appeal will be expedited to avoid negative impact upon the instructors and training programs affected by the revocations.

In addition, operators who are using a particular instructor will be notified if that instructor's approval is revoked. This notice will serve to prevent the operators from relying, in good faith, upon the services of an instructor who has lost approval and to alert the operators that a new instructor may be needed to maintain compliance.

m. *Other appropriate courses.* Commenters have objected to those portions of the proposed rule which would permit MSHA to prescribe courses not enumerated, based on "circumstances and conditions at the mine." Just as it is necessary for MSHA to be flexible in order for operators to be able to adopt effective training programs which fit conditions at a particular mine, MSHA also must have flexibility to require appropriate courses which address specific problems at a mine. Examples of such problems might be unusually high accident rates of a certain type or the existence of particularly hazardous conditions.

n. *Training of supervisors.* The final rule retains the exclusion from these training requirements of supervisory personnel subject to an approved State certification program. Some commenters were not aware of State certification requirements for supervisory personnel. Presently, certification programs are generally administered by coal producing states and are used by operators when complying with the training requirement for certified personnel found in §§ 75.160, 75.160-1, 77.107 and 77.107-1, Title 30, Code of Federal Regulations. MSHA will approve or evaluate the State certification programs to assure that such programs provide sufficient training as an alternative to the training requirements of subparts A and B; no formal approval process is contemplated. Commenters questioned why only those supervisors certified by approved State programs should be exempt from the training requirements. State certification programs are administered according to specific criteria, which helps insure that supervisors will receive adequate training. MSHA believes that a person is not necessarily adequately trained by virtue of holding a supervisory position and that it is essential for supervisors to receive formal training.

o. *Normal working hours and pay.* Several commenters objected to §§ 48.10 and 48.30 requiring training of miners during normal working hours. Commenters contended that this restriction limited their opportunities for conducting training during equipment downtime and slack periods of production.

Section 115(b) of the Mine Act specifically requires that training "shall be provided during normal working hours." This insures that miners will be alert and receptive during scheduled training sessions.

Similarly, MSHA has no authority in promulgating these rules to make any exceptions to the requirement of section 115(b) of the Mine Act that miners "shall be paid at their normal rate of compensation" for training. Accordingly, miners are to receive the same pay they would have received if they had been working at that time.

p. *Task training.* Reference was made to the word "task" not being defined clearly enough to provide sufficient guidance to the operator as to what is required for task training. MSHA intends to provide guidelines for the development of training programs for surface mines and surface areas of underground mines as well as for underground mines. The guidelines will include a section on training of miners assigned to a task in which they have had no pervious experience and will state that in order to have a complete and efficient program for new task training, it is necessary to know:

1. All jobs that are being performed,
2. What tasks each of these jobs entails,
3. The skills, knowledge, and abilities necessary to perform the tasks,
4. Any hazards that may be associated with the tasks and
5. Training that may be required to perform the tasks in a safe and efficient manner.

Many of the tasks can be listed from recall or from looking at job descriptions. Developing a complete list of tasks should entail talking with individuals now working on the job or watching them actually do the job. Talking to the supervisor, consulting established operating procedures and reviewing or developing job safety analyses (JSA's) will assist in completing the list of tasks. For instance, the job of general laborer includes several tasks such as manual handling of material, manual handling of equipment and operating a forklift. Depending upon the actual analysis of the tasks involved, these tasks may be further broken down into, among other things, loading and unloading supplies from a truck, receiving and distributing parts from a storeroom, use of handtools for various jobs, and operating air compressors and spray guns. Some of the hazards that may be included are slips and falls, inadequate lighting, adverse weather conditions and improper lifting. The training required for these tasks would include mandatory health and safety standards, hazard recognition, proper lifting techniques and proper use of handtools.

q. *Economic analysis.* Witnesses and commenters were in agreement that the training requirements encompassed by the proposed rule would constitute an economic impact for major segments of the mining industry. There was concern expressed that, given this impact, no regulatory analysis was prepared under Executive Order 12044. In the reamble to the

proposed rule, this action was justified by explaining that the major portion of the economic impact of the proposal was represented by the hours of training required under the Mine Act itself.

Section 115 of the Mine Act does not permit a reduction of the required hours of training. Since the purpose of a regulatory analysis is to provide a basis for assessing alternative approaches to an issue which is the subject of rulemaking, such an analysis would not be fruitful with respect to the impact of the statutory requirements. In addition, the requirements of the proposed rule which are not statutory in origin do not impose a "major" increase in costs upon the mining industries sufficient to necessitate the preparation of a regulatory analysis. Finally, it must be pointed out that the rulemaking process has been expedited in certain respects in order to come as close as possible to meeting the date set forth in the statute for the promulgation of these rules. Only the most compelling of circumstances could justify further delay.

Taking into account these considerations, MSHA nevertheless believes that conformance with the spirit of Executive Order 12044 is important in this case and that analysis of the economic consequences of the requirements of the Mine Act and these rules, and of possible alternative approaches, is warranted. A summary discussion of that analysis follows:

With respect to the statutory requirements themselves, it is estimated that the costs associated with the training of new miners, annual refresher training and task training for both underground and surface miners in all mining industries will total over $102 million during the first year. As noted previously, there are no alternatives which would result in a lowering of the cost of this requirement since the statute sets forth the minimum number of hours to training required in each of the statutory categories and these rules adopt the minimum levels.

This cost estimate is based upon a projected average daily cost per miner of $140, which includes the miner's wages, meals, transportation and lodging, where appropriate, and a proportionate share of the cost for training facilities, materials and wages of an instructor. It also assumes a 30 percent annual employee turnover rate, with one-third of the replacement employees being new miners and the remaining two-thirds being experienced miners. Based upon Bureau of Labor Statistics (BLS) date for the coal and metal mining industries, this 30 percent turnover rate is considerably overinflated. However, statistics are not yet being kept by BLS for nonmetal mining employee turnover and testimony from this segment of the mining community indicated a frequently high turnover. MSHA nevertheless believes that the 30 percent figure is an absolute maximum. A further assumption is that 25 percent of all miners will be required to undergo new task training annually.

These rules do impose two economically significant requirements beyond those minimally necessary to comply with the statutory mandates. These are the training of newly-employed experienced miners and the obtaining of MSHA approval in order to be qualified as an instructor. The total cost of these features of the final rule for both underground and surface mines in all mining industries is estimated to be approximately $28 million during the first year. The assumptions used to compute the cost of the newly-employed experienced miner training are similar to those used above with respect to the statutory requirements and, in addition, that an average of 8 hours will be required for such training.

MSHA could have eliminated this requirement altogether. However, MSHA's experience leads to the conclusion that even experienced miners should be thoroughly familiarized with their particular mining environment and the attendant hazards before they begin their new job duties. In addition, there was virtually no disagreement expressed during the rulemaking process that it was appropriate to include this category of miner in the training rules. Another alternative would have been possible to require only hazard training for newly-employed experienced miners. However, MSHA believes that hazard training, as described in §§ 48.11 and 48.31, is adequate only for persons only occasionally exposed to a limited range of mining hazards.

With respect to MSHA approval of instructors, it is assumed that approximately 17,500 new approved instructors will be required and that 80 percent will be operator-employed persons for whom replacement personnel will have to be acquired for the 3-day period of instructor training. It should first be pointed out that the rules themselves provide several alternative methods for obtaining MSHA approval. These are discussed on pages 14-16 of the preamble. MSHA does not believe, however, for reasons also discussed on those pages, that the elimination of the approval mechanism in favor of a system of instruction by "competent persons" will insure an adequate level of training.

Effective Date

These rules will take effect upon publication in accordance with section 101 of the Mine Act.

Drafting Information

The principal persons responsible for drafting this final rule are: John S. Curtis, Office of Education and Training, Mine Safety and Health Administration, Robert C. Snashall, Jr. and Manuel R. Lopez, Attorney Advisors, Division of Mine Safety and Health, Office of the Solicitor, Department of Labor.

Dated: October 6, 1978.

Robert B. Lagather,
Assistant Secretary for Mine Safety and Health.

SUBCHAPTER H—EDUCATION AND TRAINING

1. A new subchapter H is added to chapter I of title 30, CFR, to read as set forth above and a new part 48 is added to subchapter H, as set forth below:

PART 48—TRAINING AND RETRAINING OF MINERS

Subpart A—Training and Retraining of Underground Miners

Sec.

48.1 Scope.
48.2 Definitions.
48.3 Training plans; time of submission; where filed; information required; time for approval; method for disapproval; commencement of training; approval of instructors.
48.4 Cooperative training program.
48.5 Training of new miners; minimum courses of instruction; hours of instruction.
48.6 Training of newly-employed experienced miners; minimum courses of instruction.
48.7 Training of miners assigned to a task in which they have had no previous experience; minimum courses of instruction.
48.8 Annual refresher training of miners; minimum courses of instruction; hours of instruction.
48.9 Records of training.
48.10 Compensation for training.
48.11 Hazard training.
48.12 Appeals procedures.

Subpart B—Training and Retraining of Miners Working at Surface Mines and Surface Areas of Underground Mines

48.21 Scope.
48.22 Definitions.
48.23 Training plans; time of submission; where filed; information required; time for approval; method for disapproval; commencement of training; approval of instructors.
48.24 Cooperative training program.
48.25 Training of new miners; minimum courses of instruction; hours of instruction.

48.26 Training of newly-employed experienced miners; minimum courses of instruction.
48.27 Training of miners assigned to a task in which they have had no previous experience; minimum courses of instruction.
48.28 Annual refresher training of miners; minimum courses of instruction; hours of instruction.
48.29 Records of training.
48.30 Compensation for training.
48.31 Hazard training.
48.32 Appeals procedures.

AUTHORITY: Secs. 115(a), (b) and (c) and sec. 101(a)(2) of the Federal Mine Safety and Health Act of 1977 (Pub. L. 91-173, as amended by Pub. L. 95-164).

Subpart A—Training and Retraining of Underground Miners

§ 48.1 Scope.

The provisions of this subpart A set forth the mandatory requirements for submitting and obtaining approval of programs for training and retraining miners working in underground mines. Requirements regarding compensation for training and retraining are also included. The requirements for training and retraining miners working at surface mines and surface areas of underground mines are set forth in subpart B of this part.

§ 48.2 Definitions.

For the purposes of this subpart A—

(a)(1) "Miner" means, for purposes of §§ 48.3 through 48.10 of this subpart A, any person working in an underground mine and who is engaged in the extraction and production process, or who is regularly exposed to mine hazards, or who is a maintenance or service worker employed by the operator or a maintenance or service worker contracted by the operator to work at the mine for frequent or extended periods. This definition shall include the operator if the operator works underground on a continuing, even if irregular, basis. Short term, specialized contact workers, such as drillers and blasters, who are engaged in the extraction and production process and who have received training under § 48.6 (Training of newly-employed experienced miners) of this subpart A may, in lieu of subsequent training under that section for each new employment, receive training under § 48.11 (Hazard training) of this subpart A. This definition does not include:

(i) Workers under subpart C of this part 48, including shaft and slope workers, workers engaged in construction activities ancillary to shaft and slope sinking, and workers engaged in the construction of major additions to an existing mine which requires the mine to cease operations;

(ii) Supervisory personnel subject to MSHA approved State certification requirements; and,

(iii) Any person covered under paragraph (a)(2) of this section.

(2) Miner means, for purposes of § 48.11 (Hazard training) of this subpart A, any person working in an underground mine and excluding persons covered under paragraph (a)(1) of this section and subpart C of this part and supervisory personnel subject to MSHA approved State certification requirements. This definition includes any delivery, office, or scientific worker or occasional, short term maintenance or service worker contracted by the operator, and any student engaged in academic projects involving his or her extended presence at the mine.

(b) "Experienced miner" means a person who is employed as an underground miner, as defined in paragraph (a)(1) of this section, on the effective date of these rules; or a person who has received training acceptable to MSHA from an appropriate State agency within the preceding 12 months; or a person who has had at least 12 months experience working in an underground mine during the preceding 3 years; or a person who has received the training for a new miner within the preceding 12 months as prescribed in § 48.5 (Training of new miners) of this subpart A.

(c) "New miner" means a miner who is not an experienced miner.

(d) "Normal working hours" means a period of time during which a miner is otherwise scheduled to work. This definition does not preclude scheduling training classes on the sixth or seventh working day if such a work schedule has been established for a sufficient period of time to be accepted as the operator's common practice. Miners shall be paid at a rate of pay which shall correspond to the rate of pay they would have received had they been performing their normal work tasks.

(e) "Operator" means any owner, lessee, or other person who operates, controls or supervises an underground mine; or any independent contractor identified as an operator performing services or construction at such mine.

(f) "Task" means a work assignment that includes duties of a job that occur on a regular basis and which requires physical abilities and job knowledge.

(g) "Act" means the Federal Mine Safety and Health Act of 1977.

§ 48.3 Training plans; time of submission; where filed; information required; time for approval; method for disapproval; commencement of training; approval of instructors.

(a) Each operator of an underground mine shall have an MSHA approved plan containing programs for training new miners, training newly-employed experienced miners, training miners for new tasks, annual refresher training, and hazard training for miners as follows:

(1) In the case of an underground mine which is operating on the effective date of this subpart A, the operator of the mine shall submit such plan for approval within 90 days after the effective date of this subpart A.

(2) Within 60 days after the operator submits the plan for approval, unless extended by MSHA, the operator shall have an approved plan for the mine.

(3) In the case of a new underground mine which is to be opened or a mine which is to be reopened or reactivated after the effective date of this subpart A, the operator shall have an approved plan prior to opening the new mine, or reopening or reactivating the mine.

(b) The training plan shall be filed with the Chief of the Training Center, MSHA, for the area in which the mine is located.

(c) Each operator shall submit to the Chief of the Training Center, MSHA, the following information:

(1) The company name, mine name, and MSHA identification number of the mine.

(2) The name and position of the person designated by the operator who is responsible for health and safety training at the mine. This person may be the operator.

(3) A list of MSHA approved instructors with whom the operator proposes to make arrangements to teach the courses, and the courses each instructor is qualified to teach.

(4) The location where training will be given for each course.

(5) A description of the teaching methods and the course materials which are to be used in training.

(6) The approximate number of miners employed at the mine and the maximum number who will attend each session of training.

(7) The predicted time or periods of time when regularly scheduled refresher training will be given. This schedule shall include the titles of courses to be taught, the total number of instruction hours for each course, and the predicted time and length of each session of training.

(8) For the purposes of § 48.7 (New task training of miners) of this subpart A, the operator shall submit:

(i) A complete list of task assignments to correspond with the definition of "task" in § 48.2 (f) of this subpart A.

(ii) The titles of personnel conducting the training for this section.

(iii) The outline of training procedures used in training miners in those

work assignments listed according to paragraph (c)(8)(i) of this section.

(iv) The evaluation procedures used to determine the effectiveness of training under § 48.7 of this subpart A.

(d) The operator shall furnish to the representative of the miners a copy of the training plan two weeks prior to its submission to the Chief of the Training Center. Where a miners' representative is not designated, a copy of the plan shall be posted on the mine bulletin board 2 weeks prior to its submission to the Chief of the Training Center. Written comments received by the operator from miners or their representatives shall be submitted to the Chief of the Training Center. Miners or their representatives may submit written comments directly to the chief of the training center.

(e) All training required by the training plan submitted to and approved by the Chief of the Training Center as required by this subpart A shall be subject to evaluation by the Office of Education and Training, MSHA, to determine the effectiveness of the training programs. If it is deemed necessary, the Chief of the Training Center may require changes in, or additions to, programs. Upon request from the Office of Education and Training, MSHA, the operator shall make available for evaluation by the Office of Education and Training the instructional materials, handouts, visual aids and other teaching accessories used or to be used in the training programs. Upon request from the Office of Education and Training, MSHA, the operator shall provide information concerning the schedules of upcoming training.

(f) The operator shall make a copy to the MSHA approved training plan available at the mine site for MSHA inspection and for examination by the miners and their representatives.

(g) Except as provided in § 48.7 (New task training of miners) and § 48.11 (Hazard training) of this subpart A, all courses shall be conducted by MSHA approved instructors.

(h) Instructors shall be approved by the Office of Education and Training, MSHA, in one or more of the following ways:

(1) Instructors shall take an instructor's training course conducted by the Office of Education and Training, MSHA, or given by persons designated by the Office of Education and Training, MSHA, to give such instruction; and instructors shall have satisfactorily completed a program of instruction approved by the Office of Education and Training, MSHA, in the subject matter to be taught.

(2) Instructors may be designated by MSHA as approved instructors to teach specific courses based on written evidence of the instructors' qualifications and teaching experience.

(3) At the discretion of the Chief of the Training Center, instructors may be designated by MSHA as approved instructors to teach specific courses based on the performance of the instructors while teaching classes monitored by MSHA. Operators shall indicate in the training plans submitted for approval whether they want to have instructors approved based on monitored performance. The Training Center Chief shall consider such factors as the size of the mine, the number of employees, the mine safety record and remoteness from a training facility when determining whether instructor approval based on monitored performance is appropriate.

(4) On the effective date of this subpart A, cooperative instructors who have been designated by MSHA to teach MSHA approved courses and who have taught such courses within the 24 months prior to the effective date of this subpart shall be considered approved instructors for such courses.

(i) Instructors may have their approval revoked by MSHA for good cause which may include not teaching a course at least once every 24 months. Before any revocation is effective, the Chief of the Training Center must send written reasons for revocation to the instructor and the instructor shall be given an opportunity to demonstrate or achieve compliance before the Chief of the Training Center on the matter. A decision by the Chief of the Training Center to revoke an instructor's approval may be appealed by the instructor to the Director of Education and Training, MSHA, 4015 Wilson Boulevard, Arlington, Va. 22203. Such an appeal shall be submitted to the Director of Education and Training within 5 days of notification of the Chief of the Training Center's decision. Upon revocation of an instructor's approval, the chief of the training center shall immediately notify operators who use the instructor for training.

(j) The Chief of the Training Center for the area in which the mine is located shall notify the operator and the miners' representative, in writing, within 60 days from the date on which the training plan is filed, of the approval or status of the approval of the training programs.

(1) If revisions are required for approval, or to retain approval thereafter, the revisions required shall be specified to the operator and the miners' representative and the operator and the miners' representative shall be afforded an opportunity to discuss the revisions with the Chief of the Training Center, or to propose alternate revisions or changes. The Chief of the Training Center, in consultation with the operator and the representative of the miners, shall fix a time within which the discussion will be held, or alternate revisions or changes submitted, before final approval is made.

(2) The Chief of the Training Center may approve separate programs of the training plan and withhold approval of other programs, pending discussion of revisions or submission of alternate revisions or changes.

(k) Except as provided under § 48.8(c) (Annual refresher training of miners) of this subpart A, the operator shall commence training of miners within 60 days after approval of the training plan, or approved programs of the training plan.

(l) The operator shall notify the Chief of the Training Center, MSHA, in the area in which the mine is located, and the miners' representative of any changes or modifications the operator proposes to make in the approved training plan. The operator shall obtain the approval of the Training Center Chief for such changes or modifications.

(m) In the event the Chief of the Training Center or the Director of Education and Training disapproves a training plan or a proposed modification of a training plan or requires changes in a training plan or modification, the Chief of the Training Center or the Director of Education and Training shall notify the operator and the miners' representative in writing of:

(1) The specific changes or items of deficiency.

(2) The action necessary to effect the changes or bring the disapproved training plan or modification into compliance.

(3) The deadline for completion of remedial action to effect compliance, which shall serve to suspend punitive action under the provisions of sections 104 and 110 of the Act and other related regulations until that established deadline date, except that no such suspension shall take place in imminent danger situations.

(n) The operator shall post on the mine bulletin board, and provide to the miners' representative, a copy of all MSHA revisions and decisions which concern the training plan at the mine and which are issued by the Chief of the Training Center or the Director of Education and Training

§ 48.4 Cooperative training program.

(a) An operator of a mine may conduct his own training programs, or may participate in training programs conducted by MSHA, or may participate in MSHA approved training programs conducted by State or other Federal agencies, or associations of

mine operators, miners' representatives, other mine operators, private associations, or educational institutions.

(b) Each program and course of instruction shall be given by instructors who have been approved by MSHA to instruct in the courses which are given, and such courses and the training programs shall be adapted to the mining operations and practices existing at the mine and shall be approved by the Chief of the Training Center for the area in which the mine is located.

§ 48.5 Training of new miners; minimum courses of instruction; hours of instruction.

(a) Each new miner shall receive no less than 40 hours of training as prescribed in this section before such miner is assigned to work duties. Such training shall be conducted in conditions which as closely as practicable duplicate actual underground conditions, and approximately 8 hours of training shall be given at the minesite.

(b) The training program for new miners shall include the following courses:

(1) *Instruction in the statutory rights of miners and their representatives under the Act; authority and responsibility of supervisors.* The course shall include instruction in the statutory rights of miners and their representatives under the Act, including a discussion of section 2 of the Act; a review and description of the line of authority of supervisors and miners' representatives and the responsibilities of such supervisors and miners' representatives; and an introduction to the operator's rules and the procedures for reporting hazards.

(2) *Self-rescue and respiratory devices.* The course shall include instruction and demonstration in the use, care, and maintenance of self-rescue and respiratory devices used at the mine. Such course shall be given before the new miner goes underground.

(3) *Entering and leaving the mine; transportation; communications.* The course shall include instruction on the procedures in effect for entering and leaving the mine; the check-in and checkout system in effect at the mine; the procedures for riding on and in mine conveyances; the controls in effect for the transportation of miners and materials; and the use of the mine communication systems, warning signals, and directional signs.

(4) *Introduction to the work environment.* The course shall include a visit and tour of the mine, or portions of the mine which are representative of the entire mine. A method of mining utilized at the mine shall be observed and explained.

(5) *Mine map; escapeways; emergency evacuation; barricading.* The course shall include a review of the mine map; the escapeway system; the escape, firefighting, and emergency evacuation plans in effect at the mine; and the location of abandoned areas. Also included shall be an introduction to the methods of barricading and the locations of the barricading materials, where applicable. The program of instruction for escapeways and emergency evacuation plans approved by the District Manager shall be used for this course.

(6) *Roof or ground control and ventilation plans.* The course shall include and introduction to and instruction on the roof or ground control plan in effect at the mine and procedures for roof and rib or ground control; and an introduction to and instruction on the ventilation plan in effect at the mine and the procedures for maintaining and controlling ventilation.

(7) *Health.* The course shall include instruction on the purpose of taking dust, noise, and other health measurements, and any health control plan in effect at the mine shall be explained. The health provisions of the act and warning labels shall also be explained.

(8) *Cleanup; rock dusting.* The course shall include instruction on the purpose of rock dusting and the cleanup and rock dusting program in effect at the mine, where applicable.

(9) *Hazard recognition.* The course shall include the recognition and avoidance of hazards present in the mine, particularly any hazards related to explosives where explosives are used or stored at the mine.

(10) *Electrical hazards.* The course shall include recognition and avoidance of electrical hazards.

(11) *First aid.* The course shall include instruction in first aid methods acceptable to MSHA.

(12) *Mine gases.* The course shall include instruction in the detection and avoidance of hazards associated with mine gases.

(13) *Health and safety aspects of the tasks to which the new miner will be assigned.* The course shall include instruction in the health and safety aspects of the tasks to be assigned, the safe work procedures of such tasks, and the mandatory health and safety standards pertinent to such tasks.

(14) Such other courses as may be required by the Training Center Chief based on circumstances and conditions at the mine.

(c) Methods, including oral, written, or practical demonstration, to determine successful completion of the training shall be included in the training plan. The methods for determining such completion shall be administered to the miner before he is assigned work duties.

(d) Upon proof by an operator that a newly employed miner has received the courses and hours of instruction set forth in paragraphs (a) and (b) of this section within 12 months preceding initial employment at a mine, such miner need not repeat the training, but the operator shall give and the miner shall receive and complete the instruction and progam of training set forth in paragraph (b) of § 48.6 (Training of newly employed experienced miners), and § 48.7 (New task training of miners), if applicable, before commencing work.

§ 48.6 Training of newly employed experienced miners; minimum courses of instruction.

(a) A newly employed experienced miner shall receive and complete training in the program of instruction prescribed in this section before such miner is assigned to work duties.

(b) The training program for newly employed experienced miners shall include the folowing:

(1) *Introduction to work environment.* The course shall include a visit and tour of the mine. The methods of mining utilized at the mine shall be observed and explained.

(2) *Mandatory health and safety standards.* The course shall include the mandatory health and safety standards pertinent to the tasks to be assigned.

(3) *Authority and responsibility of supervisors and miners' representatives.* The course shall include a review and description of the line of authority of supervisors and miners' representatives and the responsibilities of such supervisors and miners' representatives; and an introduction to the operator's rules and the procedures for reporting hazards.

(4) *Entering and leaving the mine; transportation; communications.* The course shall include instruction in the procedures in effect for entering and leaving the mine; the check-in and checkout system in effect at the mine; the procedures for riding on and in mine conveyances; the controls in effect for the transportation of miner and materials; and the use of the mine communication systems, warning signals, and directional signs.

(5) *Mine map; escapeways; emergency evacuation; barricading.* The course shall include a review of the mine map; the escapeway system; the escape, firefighting, and emergency evacuation plans in effect at the mine; the location of abandoned areas; and, where applicable, methods of barricading and the locations of barricading materials. The program of instruction for escapeways and emergency evacuation plans approved by the District Manager shall be used for this course.

(6) *Roof or ground control and ventilation plans.* The course shall include an introduction to and instruction on the roof or ground control plan in effect at the mine and procedures for roof and rib or ground control; and an introduction to and instruction on the ventilation plan in effect at the mine and the procedures for maintaining and controlling ventilation.

(7) *Hazard recognition.* The course shall include the recognition and avoidance of hazards present in the mine, particularly any hazards related to explosives where explosives are used or stored at the mine.

(8) Such other courses as may be required by the Training Center Chief based on circumstances and conditions at the mine.

§ 48.7 Training of miners assigned to a task in which they have had no previous experience; minimum courses of instruction.

(a) Miners assigned to new work tasks as mobile equipment operators, drilling machine operators, haulage and conveyor systems operators, roof and ground control machine operators, and those in blasting operations shall not perform new work tasks in these categories until training prescribed in this paragraph and paragraph (b) of this section has been completed. This training shall not be required for miners who have been trained and who have demonstrated safe operating procedures for such new work tasks within 12 months preceding assignment. This training shall also not be required for miners who have performed the new work tasks and who have demonstrated safe operating procedures for such new work tasks within 12 months preceding assignment. The training program shall include the following:

(1) *Health and safety aspects and safe operating procedures for work tasks, equipment, and machinery.* The training shall include instruction in the health and safety aspects and the safe operating procedures related to the assigned tasks, and shall be given in an on-the-job environment; and

(2) (i) *Supervised practice during nonproduction.* The training shall include supervised practice in the assigned tasks, and the performance of work duties at times or places where production is not the primary objective; of

(ii) *Supervised operation during production.* The training shall include, while under direct and immediate supervision and production is in progress, operation of the machine or equipment and the performance of work duties.

(3) *New or modified machines and equipment.* Equipment and machine operators shall be instructed in safe operating procedures applicable to new or modified machines or equipment to be installed or put into operation in the mine, which require new or different operating procedures.

(4) Such other courses as may be required by the Training Center Chief based on circumstances and conditions at the mine.

(b) Miners under paragraph (a) of this section shall not operate the equipment or machine or engage in blasting operations without direction and immediate supervision until such miners have demonstrated safe operating procedures for the equipment or machine or blasting operation to the operator or the operator's agent.

(c) Miners assigned a new task not covered in paragraph (a) of this section shall be instructed in the safety and health aspects and safe work procedures of the task, prior to performing such task.

(d) Any person who controls or directs haulage operations at a mine shall receive and complete training courses in safe haulage procedures related to the haulage system, ventilation system, firefighting procedures, and emergency evacuation procedures in effect at the mine before assignment to such duties.

(e) All training and supervised practice and operation required by this section shall be given by a qualified trainer, or a supervisor experienced in the assigned tasks, or other person experienced in the assigned tasks.

§ 48.8 Annual refresher training of miners; minimum courses of instruction; hours of instruction.

(a) Each miner shall receive a minimum of 8 hours of annual refresher training as prescribed in this section.

(b) The annual refresher training program for all miners shall include the following courses of instruction:

(1) *Mandatory health and safety standards.* The course shall include mandatory health and safety standard requirements which are related to the miner's tasks.

(2) *Transportation controls and communication systems.* The course shall include instruction on the procedures for riding on and in mine conveyances; the controls in effect for the transportation of miners and materials; and the use of the mine communication systems, warning signals, and directional signs.

(3) *Barricading.* The course shall include a review of the methods of barricading and locations of barricading materials, where applicable.

(4) *Roof or ground control and ventilation plans.* The course shall include a review of roof or ground control plans in effect at the mine and the procedures for maintaining and controlling ventilation.

(5) *First aid.* The course shall include a review of first aid methods acceptable to MSHA.

(6) *Electrical hazards.* The course shall include recognition and avoidance of electrical hazards.

(7) *Prevention of accidents.* The course shall include a review of accidents and causes of accidents, and instruction in accident prevention in the work environment.

(8) *Self-rescue devices and respiratory devices.* The course shall include instruction in the use, care, and maintenance of self-rescue and respiratory devices.

(9) *Explosives.* The course shall include a review and instruction on the hazards related to explosives. The only exception to this course component is when there are no explosives used or stored on the mine property.

(10) *Mine gases.* The course shall include instruction in the detection and avoidance of hazards associated with mine gases.

(11) *Health.* The course shall include instruction on the purpose of taking dust, noise, and other health measurements and any health control plan in effect at the mine shall be explained. The health provisions of the Act and warning labels shall also be explained.

(12) Such other courses as may be required by the Training Center Chief based on circumstances and conditions at the mine.

(c) All experienced miners already employed at a mine on the effective date of the Act (March 9, 1978) shall receive refresher training, as prescribed in this section and in accordance with the approved plan, to begin not more than 90 days after the date of approval of the training program required by this subpart A.

(d) Where annual refresher training is conducted periodically, such sessions shall not be less than 30 minutes of actual instruction time and the miners shall be notified that the session is part of annual refresher training.

§ 48.9 Records of training.

(a) Upon a miner's completion of each MSHA approved training program, the operator shall record and certify on MSHA form 5000-23 that the miner has received the specified training. A copy of the training certificate shall be given to the miner at the completion of the training. The training certificates for each miner shall be available at the minesite for inspection by MSHA and for examination by the miners, the miner's representative, and State inspection agencies. When a miner leaves the operator's employ, the miner shall be entitled to a copy of his training certificates.

(b) False certification that training was given shall be punishable under section 110 (a) and (f) of the Act.

(c) Copies of training certificates for currently employed miners shall be kept at the minesite for 2 years, or for 60 days after termination of employment.

§ 48.10 Compensation for training.

(a) Training shall be conducted during normal working hours; miners attending such training shall receive the rate of pay as provided in § 48.2(d) (Definition of normal working hours) of this subpart A.

(b) If such training shall be given at a location other than the normal place of work, miners shall be compensated for the additional cost, such as mileage, meals, and lodging, they may incur in attending such training sessions.

§ 48.11 Hazard training.

(a) Operators shall provide to those miners, as defined in § 48.2(a)(2) (Definition of miner) of this subpart A, a training program before such miners commence their work duties. This training program shall include the following instruction, which is applicable to the duties of such miners:

(1) Hazard recognition and avoidance;

(2) Emergency and evacuation procedures;

(3) Health and safety standards, safety rules, and safe working procedures;

(4) Self-rescue and respiratory devices; and

(5) Such other instruction as may be required by the Chief of the Training Center based on circumstances and conditions at the mine.

(b) Miners shall receive the instruction required by this section at least once every 12 months.

(c) The training program required by this section shall be submitted with the training plan required by § 48.3(a) (Training plans: Submission and approval) of this subpart A and shall include a statement on the methods of instruction to be used.

(d) In accordance with § 48.9 (Records of training) of this subpart A, the operator shall maintain and make available for inspection certificates that miners have received the hazard training required by this section.

(e) Miners subject to hazard training shall be accompanied at all times while underground by an experienced miner, as defined in § 48.2(b) (Definition of miner) of this subpart A.

§ 48.12 Appeals procedures.

The operator, miner, and miners' representative shall have the right of appeal from a decision of the Training Center Chief.

(a) In the event an operator, miner, or miners' representative decides to appeal a decision by a Training Center Chief, such an appeal shall be submitted, in writing, to the Director of Education and Training, MSHA, 4015 Wilson Boulevard, Arlington, Va. 22203, within 30 days of notification of the Chief of the Training Center's decision.

(b) The Director of Education and Training may require additional information from the operator, the miners, or their representatives, and the Chief of the Training Center, if the Director determines such information is necessary.

(c) The Director of Education and Training shall render a decision on the appeal within 30 days after receipt of the appeal.

Subpart B—Training and Retraining of Miners Working at Surface Mines and Surface Areas of Underground Mines

§ 48.21 Scope.

The provisions of this subpart B set forth the mandatory requirements for submitting and obtaining approval of programs for training and retraining miners working at surface mines and surface areas of underground mines. Requirements regarding compensation for training and retraining are also included. The requirements for training and retraining miners working in underground mines are set forth in subpart A of this part.

§ 48.22 Definitions.

For the purposes of this subpart B—

(a)(1) "Miner" means, for purposes of §§ 48.23 through 48.30 of this subpart B, any person working in a surface mine or surface areas of an underground mine and who is engaged in the extraction and production process, or who is regularly exposed to mine hazards, or who is a maintenance or service worker employed by the operator or a maintenance or service worker contracted by the operator to work at the mine for frequent or extended periods. This definition shall include the operator if the operator works at the mine on a continuing, even if irregular, basis. Short-term, specialized contract workers, such as drillers and blasters, who are engaged in the extraction and production process and who have received training under § 48.26 (Training of newly employed experienced miners) of this subpart B, may in lieu of subsequent training under that section for each new employment, receive training under § 48.31 (Hazard training) of this subpart B. This definition does not include:

(i) Construction workers and shaft and slope workers under subpart C of this part 48;

(ii) Supervisory personnel subject to MSHA approved State certification requirements; and

(iii) Any person covered under paragraph (a)(2) of this section.

(a)(2) Miner means, for purposes of § 48.31 (Hazard training) of this subpart B, any person working in a surface mine or surface areas of an underground mine excluding persons covered under paragraph (a)(1) of this section and subpart C of this part and supervisory personnel subject to MSHA approved state certification requirements. This definition includes any delivery, office, or scientific worker, or occasional, short-term maintenance or service worker contracted by the operator, and any student engaged in academic projects involving his or her extended presence at the mine.

(b) "Experienced miner" means a person who is employed as a miner, as defined in paragraph (a)(1) of this section, on the effective date of these rules; or a person who has received training acceptable to MSHA from an appropriate State agency within the preceding 1 months; or a person who has had at least 12 months' experience working in a surface mine or surface area of an underground mine during the preceding 3 years; or a person who has received the training for a new miner within the preceding 12 month as prescribed in § 48.25 (Training of new miners) of this subpart B.

(c) "New miner" means a miner who is not an experienced miner.

(d) "Normal working hours" means a period of time during which a miner is otherwise scheduled to work. This definition does not preclude scheduling training classes on the sixth or seventh working day if such a work schedule has been established for a sufficient period of time to be accepted as the operator's common practice. Miners shall be paid at a rate of pay which shall correspond to the rate of pay they would have received had they been performing their normal work tasks.

(e) "Operator" means any owner, lessee, or other person who operates, controls, or supervises a surface mine or surface area of an underground mine; or any independent contractor identified as an operator performing services or construction at such time.

(f) "Task" means a work assignment that includes duties of a job that occur on a regular basis and which requires physical abilitities and job knowledge.

(g) "Act" means the Federal Mine Safety and Health Act of 1977.

§ 48.23 Training plans; time of submission; where filed; information required; time for approval; method for disapproval; commencement of training; approval of instructors.

(a) Each operator of a mine shall have an MSHA approved plan containing programs for training new miners, training newly-employed experienced miners, training miners for new tasks, annual refresher training, and hazard training for miners as follows:

(1) In the case of a mine which is operating on the effective date of this subpart B, the operator of the mine shall submit such plan for approval within 150 days after the effective date of this subpart B.

(2) Within 60 days after the operator submits the plan for approval, unless extended by MSHA, the operator shall have an approved plan for the mine.

(3) In the case of a new mine which is to be opened or a mine which is to be reopened or reactivated after the effective date of this subpart B, the operator shall have an approved plan prior to opening the new mine, or reopening or reactivating the mine unless the mine is reopened or reactivated periodically using portable equipment and mobile teams of miners as a normal method of operation by the operator. The operator to be so excepted shall maintain an approved plan for training covering all mine locations which are operated with portable equipment and mobile teams of miners.

(b) The training plan shall be filed with the Chief of the Training Center, MSHA, for the area in which the mine is located.

(c) Each operator shall submit to the Chief of the Training Center, MSHA, the following information:

(1) The company name, mine name, and MSHA identification number of the mine.

(2) The name and position of the person designated by the operator who is responsible for health and safety training at the mine. This person may be the operator.

(3) A list of MSHA approved instructors with whom the operator proposes to make arrangements to teach the courses, and the courses each instructor is qualified to teach.

(4) The location where training will be given for each course.

(5) A description of the teaching methods and the course materials which are to be used in training.

(6) The approximate number of miners employed at the mine and the maximum number who will attend each session of training.

(7) The predicted time or periods of time when regularly scheduled refresher training will be given. This schedule shall include the titles of courses to be taught, the total number of instruction hours for each course, and the predicted time and length of each session of training.

(8) For the purposes of § 48.27 (New task training of miners) of this subpart B, the operator shall submit:

(i) A complete list of task assignments to correspond with the definition of "task" in § 48.22(f) of this subpart B.

(ii) The titles of personnel conducting the training for this section.

(iii) The outline of training procedures used in training miners in those work assignments listed according to paragraph (c)(8)(i) of this section.

(iv) The evaluation procedures used to determine the effectiveness of training under § 48.27 of this subpart B.

(d) The operator shall furnish to the representative of the miners a copy of the training plan 2 weeks prior to its submission to the Chief of the Training Center. Where a miners' representative is not designated, a copy of the plan shall be posted on the mine bulletion board 2 weeks prior to its submission to the Chief of the Training Center. Written comments received by the operator from miners or their representatives shall be submitted to the Chief of the Training Center. Miners or their representatives may submit written comments directly to the Chief of the Training Center.

(e) All training required by the training plan submitted to and approved by the Chief of the Training Center as required by this subpart B shall be subject to evaluation by the Office of Education and Training, MSHA, to determine the effectiveness of the training programs. If it is deemed necessary, the Chief of the Training Center may require changes in, or additions to, programs. Upon request from the Office of Education and Training, MSHA, the operator shall make available for evaluation by the Office of Education and Training the instructional materials, handouts, visual aids, and other teaching accessories used or to be used in the training programs. Upon request from the Office of Education and Training, MSHA, the operator shall provide information concerning schedules of upcoming training.

(f) The operator shall make a copy of the MSHA approved training plan available at the mine site for MSHA inspection and examination by the miners and their representatives.

(g) Except as provided in § 48.27 (New task training of miners) and § 48.31 (Hazard training) of this subpart B, all courses shall be conducted by MSHA approved instructors.

(h) Instructors shall be approved by the Office of Education and Training, MSHA, in one or more of the following ways:

(1) Instructors shall take an instructor's training course conducted by the Office of Education and Training, MSHA, or given by persons designated by the Office of Education and Training, MSHA, to give such instruction; and instructors shall have satisfactorily completed a program of instruction approved by the Office of Education and Training, MSHA, in the subject matter to be taught.

(2) Instructors may be designated by MSHA as approved instructors to teach specific courses based on written evidence of the instructors' qualifications and teaching experience.

(3) At the discretion of the Chief of the Training Center, instructors may be designated by MSHA as approved instructors to teach specific courses based on the performance of the instructors while teaching classes monitored by MSHA. Operators shall indicate in training plans submitted for approval whether they want to have instructors approved based on monitored performance. The Training Center Chief shall consider such factors as the size of the mine, the number of employees, the mine safety record and remoteness from a training facility when determining whether instructor approval based on monitored performance is appropriate.

(4) On the effective date of this subpart B, cooperative instructors who have been designated by MSHA to teach MSHA approved courses and who have taught such courses within 24 months prior to the effective date of this subpart shall be considered approved instructors for such courses.

(i) Instructors may have their approval revoked by MSHA for good cause which may include not teaching a course at least once every 24 months. Before any revocation is effective, the Chief of the Training Center must send written reasons for revocation to the instructor and the instructor shall be given an opportunity to demonstrate or achieve compliance before the Chief of the Training Center on the matter. A decision by the Chief of the Training Center to revoke an instructor's approval may be appealed by the instructor to the Director of Education and Training, MSHA, 4015 Wilson Boulevard, Arlington, Va. 22203. Such an appeal shall be submitted to the Director of Education and Training within 5 days of notification of the Chief of the Training Center's decision. Upon revocation of an instructor's approval, the Chief of the Training Center shall immediately notify operators who use the instructor for training.

(j) The Chief of the Training Center for the area in which the mine is located shall notify the operator and the miners' representative, in writing, within 60 days from the date on which

the training plan is filed, of the approval or status of the approval of the training programs.

(1) If revisions are required for approval, or to retain approval thereafter, the revisions required shall be specified to the operator and the miners' representative and the operator and the miners' representative shall be afforded an opportunity to discuss the revisions with the Chief of the Training Center, or propose alternate revisions or changes. The Chief of the Training Center, in consultation with the operator and the representative of miners, shall fix a time within which the discussion will be held, or alternate revisions or changes submitted, before final approval is made.

(2) The Chief of the Training Center may approve separate programs of the training plan and withhold approval of other programs, pending discussion of revisions or submission of alternate revisions or changes.

(k) Except as provided under § 48.28(c) (Annual refresher training of miners) of this subpart B, the operator shall commence training of miners within 60 days after approval of the training plan, or approved programs of the training plan.

(l) The operator shall notify the Chief of the Training Center, MSHA, in the area in which the mine is located and the miners' representative of any changes or modifications which the operator proposes to make in the approval training plan. The operator shall obtain the approval of the Training Center Chief for such changes or modifications.

(m) In the event the Chief of the Training Center or the Director of Education and Training disapproves a training plan or a proposed modification of a training plan or requires changes in a training plan or modification, the Chief of the Training Center or the Director of Education and Training shall notify the operator and the miners' representative in writing of:

(1) The specific changes or items of deficiency.

(2) The action necessary to effect the changes or bring the disapproved training plan or modification into compliance.

(3) The deadline for completion of remedial action to effect compliance, which shall serve to suspend punitive action under the provisions of sections 104 and 110 of the Act and other related regulations until that established deadline date, except that no such suspension shall take place in imminent danger situations.

(n) The operator shall post on the mine bulletin board, and provide to the miners' representative, a copy of all MSHA revisions and decisions which concern the training plan at the mine and which are issued by the Chief of the Training Center or the Director of Education and Training.

§ 48.24 Cooperative training program.

(a) An operator of a mine may conduct his own training programs, or may participate in training programs conducted by MSHA, or may participate in MSHA approved training programs conducted by State or other Federal agencies, or associations of mine operators, miners' representatives, other mine operators, private associations, or educational institutions.

(b) Each program and course of instruction shall be given by instructors who have been approved by MSHA to instruct in the courses which are given, and such courses and the training programs shall be adapted to the mining operations and practices existing at the mine and shall be approved by the Chief of the Training Center for the area in which the mine is located.

§ 48.25 Training of new miners; minimum courses of instruction; hours of instruction.

(a) Each new miner shall receive no less than 24 hours of training as prescribed in this section. Except as otherwise provided in this paragraph, new miners shall receive this training before they are assigned to work duties. At the discretion of the Chief of the Training Center, new miners may receive a portion of this training after assignment to work duties: *Provided,* That no less than 8 hours of training shall in all cases be given to new miners before they are assigned to work duties. The following courses shall be included in the 8 hours of training: Introduction to work environment, hazard recognition, and health and safety aspects of the tasks to which the new miners will be assigned. Following the completion of this preassignment training, new miners shall then receive the remainder of the required 24 hours of training, or up to 16 hours, within 60 days. Operators shall indicate in the training plans submitted for approval whether they want to train new miners after assignment to duties and for how many hours. In determining whether new miners may be given this training after they are assigned duties, the Training Center Chief shall consider such factors as the mine safety record, rate of employee turnover and mine size. Miners who have not received the full 24 hours of new miner training shall be required to work under the close supervision of an experienced miner.

(b) The training program for new miners shall include the following courses:

(1) *Instruction in the statutory rights of miners and their representatives under the Act; authority and responsibility of supervisors.* The course shall include instruction in the statutory rights of miners and their representatives under the Act, including a discussion of section 2 of the Act; a review and description of the line of authority of supervisors and miners' representatives and the responsibilities of such supervisors and miners' representatives; and an introduction to the operator's rules and the procedures for reporting hazards.

(2) *Self-rescue and respiratory devices.* The course shall include instruction and demonstration in the use, care, and maintenance of self-rescue and respiratory devices, where applicable.

(3) *Transportation controls and communication systems.* The course shall include instruction on the procedures in effect for riding on and in mine conveyances where applicable; the controls for the transportation of miners and materials; and the use of mine communication systems, warning signals, and directional signs.

(4) *Introduction to work environment.* The course shall include a visit and tour of the mine, or portions of the mine which are representative of the entire mine. The method of mining or operation utilized shall be observed and explained.

(5) *Escape and emergency evacuation plans; firewarning and firefighting.* The course shall include a review of the mine escape system, and escape and emergency evacuation plans in effect at the mine; and instruction in the firewarning signals and firefighting procedures.

(6) *Ground control; working in areas of highwalls, water hazards, pits and spoil banks; illumination and night work.* The course shall include, where applicable, and introduction to and instruction on the highwall and ground control plans in effect at the mine; procedures for working safely in areas of highwalls, water hazards, pits and spoil banks; the illumination of work areas; and safe work procedures during the hours of darkness.

(7) *Health.* The course shall include instruction on the purpose of taking dust measurements, where applicable, and noise and other health measurements, and any health control plan in effect at the mine shall be explained. The health provisions of the Act and warning labels shall also be explained.

(8) *Hazard recognition.* The course shall include the recognition and avoidance of hazards present in the mine.

(9) *Electrical hazards.* The course shall include recognition and avoidance of electrical hazards.

(10) *First aid.* The course shall include instruction in first aid methods acceptable to MSHA.

(11) *Explosives.* The course shall include a review and instruction on the hazards related to explosives. The only exception to this course component is when no explosives are used or stored on mine property.

(12) *Health and safety aspects of the tasks to which the new miner will be assigned.* The course shall include instructions in the health and safety aspects of the tasks to be assigned, the safe work procedures of such tasks, and the mandatory health and safety standards pertinent to such tasks.

(13) Such other courses as may be required by the Training Center Chief based on circumstances and conditions at the mine.

(c) Methods, including oral, written or practical demonstration, to determine successful completion of the training shall be included in the training plan. Upon completion of training, the methods for determining successful completion shall be administered to the miner. The method for determining successful completion of preassignment training under paragraph (a) of this section shall be administered to the miner before he is assigned to work duties.

(d) Upon proof by an operator that a newly employed miner has received the courses and hours of instruction set forth in paragraphs (a) and (b) of this section within 12 months preceding initial employment at a mine, such miner need not repeat the training, but the operator shall give and the miner shall receive and complete the instruction and program of training set forth in paragraph (b) of § 48.26 (Training of newly employed experienced miners) and § 48.27 (New task training of miners), if applicable, before commencing work.

§ 48.26 Training of newly employed experienced miners; minimum courses of instruction.

(a) A newly employed experienced miner shall receive and complete training in the program of instruction prescribed in this section before such miner is assigned to work duties.

(b) The training program for newly employed experienced miners shall include the following:

(1) *Introduction to work environment.* The course shall include a visit and tour of the mine. The methods of mining or operations utilized at the mine shall be observed and explained.

(2) *Mandatory health and safety standards.* The course shall include the mandatory health and safety standards pertinent to the tasks to be assigned.

(3) *Authority and responsibility of supervisors and miners' representatives.* The course shall include a review and description of the line of authority of supervisors and miners' representatives and the responsibilities of such supervisors and miners' representatives; and an introduction to the operator's rules and the procedures for reporting hazards.

(4) *Transportation controls and communication systems.* The course shall include instruction on the procedures in effect for riding on and in mine conveyances; the controls for the transportation of miners and materials; and the use of the mine communication systems, warning signals, and directional signs.

(5) *Escape and emergency evacuation plans; firewarning and firefighting.* The course shall include a review of the mine escape system; escape and emergency evacuation plans in effect at the mine; and instruction in the firewarning signals and firefighting procedures.

(6) *Ground controls; working in areas of highwalls, water hazards, pits, and spoil banks; illumination and night work.* The course shall include, where applicable, an introduction to and instruction on the highwall and ground control plans in effect at the mine; procedures for working safely in areas of highwalls, water hazards, pits, and spoil banks, the illumination of work areas, and safe work procedures for miners during hours of darkness.

(7) *Hazard recognition.* The course shall include the recognition and avoidance of hazards present in the mine, particularly any hazards related to explosives where explosives are used or stored at the mine.

(8) Such other courses as may be required by the Training Center Chief based on circumstances and conditions at the mine.

§ 48.27 Training of miners assigned to a task in which they have had no previous experience; minimum courses of instruction.

(a) Miners assigned to new work tasks as mobile equipment operators, drilling machine operators, haulage and conveyor systems operators, ground control machine operators, and those in blasting operations shall not perform new work tasks in these catergories until training prescribed in this paragraph and paragraph (b) of this section has been completed. This training shall not be required for miners who have been trained and who have demonstrated safe operating procedures for such new work tasks within 12 months preceding assignment. This training shall also not be required for miners who have performed the new work tasks and who have demonstrated safe operating procedures for such new work tasks within 12 months preceding assignment. The training program shall include the following:

(1) *Health and safety aspects and safe operating procedures for work tasks, equipment, or machinery.* The training shall include instruction in the health and safety aspects and safe operating procedures related to the assigned tasks, and shall be given in an on-the-job environment; and,

(2)(i) *Supervised practice during nonproduction.* The training shall include supervised practice in the assigned tasks, and the performance of work duties at times or places where production is not the primary objective; or,

(ii) *Supervised operation during production.* The training shall include, while under direct and immediate supervision and production is in progress, operation of the machine or equipment and the performance of work duties.

(3) *New or modified machines and equipment.* Equipment and machine operators shall be instructed in safe operating procedures applicable to new or modified machines or equipment to be installed or put into operation in the mine, which require new or different operating procedures.

(4) Such other courses as may be required by the Training Center Chief based on circumstances and conditions at the mine.

(b) Miners under paragraph (a) of this section shall not operate the equipment or machine or engage in blasting operations without direction and immediate supervision until such miners have demonstrated safe operating procedures for the equipment or machine or blasting operation to the operator or the operator's agent.

(c) Miners assigned a new task not covered in paragraph (a) of this section shall be instructed in the safety and health aspects and safe work procedures of the task, prior to performing such task.

(d) All training and supervised practice and operation required by this section shall be given by a qualified trainer, or a supervisor experienced in the assigned tasks, or other person experienced in the assigned tasks.

§ 48.28 Annual refresher training of miners; minimum courses of instruction; hours of instruction.

(a) Each miner shall receive a mimimum of 8 hours of annual refresher training as prescribed in this section.

(b) The annual refresher training program for all miners shall include the following courses of instruction:

(1) *Mandatory health and safety standards.* The course shall include mandatory health and safety standard requirements which are related to the miner's tasks.

(2) *Transportation controls and communication systems.* The course shall include instruction on the procedures for riding on and in mine conveyances; the controls in effect for the transportation of miners and materials; and the use of the mine communication systems, warning signals, and directional signs.

(3) *Escape and emergency evacuation plans; firewarning and firefighting.* The course shall include a review of the mine escape system; escape and emergency evacuation plans in effect at the mine; and instruction in the firewarning signals and firefighting procedures.

(4) *Ground control; working in areas of highwalls, water hazards, pits, and spoil banks; illumination and night work.* The course shall include, where applicable, a review and instruction on the highwall and ground control plans in effect at the mine; procedures for working safely in areas of highwalls, water hazards, pits, and spoil banks; the illumination of work areas; and safe work procedures during hours of darkness.

(5) *First aid.* The course shall include a review of first aid methods acceptable to MSHA.

(6) *Electrical hazards.* The course shall include recognition and avoidance of electrical hazards.

(7) *Prevention of accidents.* the course shall include a review of accidents and causes of accidents, and instruction in accident prevention in the work environment.

(8) *Health.* The course shall include instruction on the purpose of taking dust measurements, where applicable, and noise and other health measurements, and any health control plan in effect at the mine shall be explained. The health provisions of the Act and warning labels shall also be explained.

(9) *Explosives.* The course shall include a review and instruction on the hazards related to explosives. The only exception to this course component is when there are no explosives used or stored on the mine property.

(10) *Self-rescue and respiratory devices.* The course shall include instruction and demonstration in the use, care, and maintenance of self-rescue and respiratory devices, where applicable.

(11) Such other courses as may be required by the Training Center Chief based on circumstances and conditions at the mine.

(c) All experienced miners already employed at a mine on the effective date of the Act (March 9, 1978) shall receive refresher training, as prescribed in this section and in accordance with an approved plan, to begin not more than 90 days after the date of approval of the training program required by this subpart B.

(d) Where annual refresher training is conducted periodically, such sessions shall not be less than 30 minutes of actual instruction time and the miners shall be notified that the session is part of annual refresher training.

§ 48.29 Records of training.

(a) Upon a miner's completion of each MSHA approved training program, the operator shall record and certify on MSHA form 5000-23 that the miner has received the specified training. A copy of the training certificate shall be given to the miner at the completion of the training. The training certificates for each miner shall be available at the mine site for inspection by MSHA and for examination by the miners, the miners' representative and State inspection agencies. When a miner leaves the operator's employ, the miner shall be entitled to a copy of his training certificates.

(b) False certification that training was given shall be punishable under section 110 (a) and (f) of the Act.

(c) Copies of training certificates for currently employed miners shall be kept at the mine site for 2 years, or for 60 days after termination of employment.

§ 48.30 Compensation for training.

(a) Training shall be conducted during normal working hours; miners attending such training shall receive the rate of pay as provided in § 48.22(d) (Definition of normal working hours) of this subpart B.

(b) If such training shall be given at a location other than the normal place of work, miners shall be compensated for the additional costs, such a mileage, meals, and lodging, they may incur in attending such training sessions.

§ 48.31 Hazard training.

(a) Operators shall provide to those miners, as defined in § 48.22(a)(2) (Definition of miner) of this subpart B, a training program before such miners commence their work duties. This training program shall include the following instruction, which is applicable to the duties of such miners:

(1) Hazard recognition and avoidance;

(2) Emergency and evacuation procedures;

(3) Health and safety standards, safety rules and safe working procedures;

(4) Self-rescue and respiratory devices; and,

(5) Such other instruction as may be required by the Chief of the Training Center based on circumstances and conditions at the mine.

(b) Miners shall receive the instruction required by this section at least once every 12 months.

(c) The training program required by this section shall be submitted with the training plan required by § 48.23(a) (Training plans: Submission and approval) of this subpart B and shall include a statement on the methods of instruction to be used.

(d) In accordance with § 48.29 (Records of training) of this subpart B, the operator shall maintain and make available for inspection, certificates that miners have received the instruction required by this section.

§ 48.32 Appeals procedures.

The operator, miner, and miners' representative shall have the right of appeal from a decision of the Training Center Chief.

(a) In the event an operator, miner, or miners' representative decides to appeal a decision by the Training Center Chief, such an appeal shall be submitted, in writing, to the Director of Education and Training, MSHA, 4015 Wilson Boulevard, Arlington, Va. 22203, within 30 days of notification of the Chief of the Training Center's decision.

(b) The Director of Education and Training may require additional information from the operator, the miners or their representatives, and the Chief of the Training Center, if the Director determines such information is necessary.

(c) The Director of Education and Training shall render a decision on the appeal within 30 days after receipt of the appeal.

[FR Doc. 78-29001 Filed 10-12-78; 8:45 am]

federal register

FRIDAY, OCTOBER 13, 1978
PART V



DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

■

WATER RESOURCES POLICIES AND AUTHORITIES

Federal Participation in Covered Flood Control Channels

[3710-92-M]

Title 33—Navigation and Navigable Waters

CHAPTER II—CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY

[ER 1165-2-118]

PART 239—WATER RESOURCES POLICIES AND AUTHORITIES: FEDERAL PARTICIPATION IN COVERED FLOOD CONTROL CHANNELS

AGENCY: U.S. Army Corps of Engineers.

ACTION: Final rule.

SUMMARY: The Chief of Engineers is promulgating a regulation for Civil Works elements of the U.S. Army Corps of Engineers to follow for participating in covered flood control channels. This regulation provides current policy guidance required to determine the desirability of covering flood control channels and the extent of non-Federal cost-sharing required.

EFFECTIVE DATE: October 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert J. Kaighn, 202-693-6807, or write: Office of the Chief of Engineers, Forrestal Building, Washington, D.C. 20314, Attn: DAEN-CWR-R.

SUPPLEMENTARY INFORMATION: Congress in the Flood Control Act of 1936, established as a nationwide policy that flood control on navigable waters or their tributaries is in the interest of the general welfare and is therefore a proper activity of the Federal Government in cooperation with the States and local entities. It provided that the Federal Government may improve streams or participate in improvements "for flood-control purposes if the benefits to whomsoever they may accrue are in excess of the estimated costs, and if the lives and social security of people are otherwise adversely affected." The 1936 and subsequent acts further specified the details of Federal participation. The scope of the Federal interest includes consideration of all alternatives in controlling flood waters, reducing the susceptibility of property to flood damage, and relieving human and financial losses.

Non-Federal participation in flood control projects is required. Non-Federal participation usually includes provision at local cost of all lands, easements, rights-of-way, as well as all necessary alterations and relocations to utilities, streets, bridges, buildings, storm drains, and other structures and improvements. The sponsoring local agency must also agree to hold the United States free from damages due to the construction works, not including damages due to the fault or negligence of the United States or its contractors; and assure continued non-Federal operation and maintenance of the project after completion. The above requirements are generally known as the "a-b-c" requirements of local cooperation from their description in section 3 of the 1936 Flood Control Act as amended. Other additional local participation is required where special local conditions warrant.

The Army Corps of Engineers is authorized by section 206 of the 1960 Flood Control Act, as amended, to provide information, technical planning assistance, and guidance to non-Federal entities to help them in identifying the magnitude and extent of the flood hazard and in planning wise use of the flood plains.

Accordingly, 33 CFR is amended by adding a new part 239 as set forth below:

This is an interpretive rule providing agency guidance concerning Corps of Engineers participation in urban flood control projects. It is exempt from the notice of proposed rulemaker requirements in 5 U.S.C. 553(6)(3)(A).

NOTE.—The Corps of Engineers 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.

Dated: October 10, 1978.

Approved:

THORWALD R. PETERSON,
Colonel, Corps of Engineers,
Executive Director, Engineer Staff.

Sec.

239.1 Purpose.
239.2 Applicability.
239.3 References.
239.4 Policy.
239.5 Engineering considerations.
239.6 Level of protection.
239.7 Separation of flood control works from urban drainage.
239.8 Cost sharing.
239.9 Effective date.

AUTHORITY: Pub. L. 738, 74th Congress 33 U.S.C. 701a.

§ 239.1 Purpose.

This regulation establishes policy for determining the extent of Federal participation in covered flood control channels.

§ 239.2 Applicability.

This regulation applies to all OCE elements and all field operating agencies having civil works responsibilities.

§ 239.3 References.

(a) Executive Order 11988, Floodplain Management, 24 May 1977.
(b) ER 1105-2-200.
(c) ER 1165-2-21.

§ 239.4 Policy.

Projects will be formulated and evaluated in accordance with the policies and procedures described in ER 1105-2-200. If, during the planning process, it appears that covered flood control channels are desirable, reporting officers may evaluate them and include them when they best serve the public interest. Selection of the plan which best serves the public interest is based upon the ability of the plan to meet planning objectives, the contributions which the plan makes to the National Economic Development (NED), Environmental Quality (EQ), Regional Development (RD) and Social Well Being (SWB) accounts, and the public response to alternative plans. Thus, covered flood control channels may be proposed if they are desired by the public and (a) increase net EQ and/or NED benefits; or, (b) reduce adverse effects on RD or SWB without incurring an unjustified loss in net NED or EQ benefits.

§ 239.5 Engineering considerations.

Reports on proposals to provide covered channels shall include a discussion of the following matters.

(a) Impacts of sudden reduction in discharge and increased upstream channel stages when the channel entrance is submerged. This discussion shall include the effects resulting from the SPF.

(b) Dangers of rupture resulting from pressurization.

(c) Features provided to prevent human ingress and their impact on project functions.

(d) Effect of the cover on inspection and maintenance costs.

(e) Features provided for pressure release and air venting.

(f) Need for a storm warning system.

(g) Facilities provided to divert flows exceeding the design flow.

§ 239.6 Level of protection.

Evaluation of the above items may indicate that submergence of entrances to covered channels may have significant impacts on the level of flooding. The requirements of EO 11988 and the significance of the resulting flood damage may require that the covered portion of the channel be enlarged to provide capacity to pass the SPF. If inclusion of SPF capacity on the covered portions of the project cannot be justified, the added capacity may be reduced to the extent that the project will not increase upstream stages resulting from the SPF when compared to the without-project condition. If this capacity is still not feasible, covered channels shall not be recommended.

§ 239.7 Separation of flood control works from urban drainage.

Covered channels are likely to be considered in boundary areas demarking urban drainage and flood control. Reporting officers shall apply the policies given in ER 1165-2-21 to separate flood control facilities from urban drainage facilities.

§ 239.8 Cost sharing.

At local protection projects local interests are required to provide all lands, easements, rights-of-way and all alterations and relocations of utilities, streets, bridges, buildings, storm drains and other structures and improvements; hold and save the United States free from damages due to the construction works except damages due to the fault or negligence of the United States or its contractor; and assume operation and maintenance of the works after completion. In addition, local interests are required to provide additional cost sharing to reflect special local benefits or betterments. Such additional special cost sharing will not be required for covered channels when the addition of the cover increases net NED flood control benefits when compared to the open channel or when they are provided for safety in schoolyards, playgrounds, or other known play areas for juveniles. However, the separable cost of providing covers for mitigating SWB or RD impacts or to provide areas for public or private uses such as parking, or the provision of areas for recreation development, etc., will be assigned to local interests. The separable cost of recreational facilities to be constructed on or adjacent to the cover, i.e. picnic facilities, etc., are eligible for Federal participation in accordance with cost-sharing policies for recreation facilities at local protection projects. Cost-sharing policies for project features which are included to make positive contributions to the EQ account are being developed. Until such policies are developed, proposals to cover channels on this basis will be coordinated with HQDA (DAEN-CWP), Washington, D.C. 20314.

§ 239.9 Effective date.

These regulations are applicable to all projects not approved by OCE prior to the date of this regulation.

[FR Doc. 78-29045 Filed 10-12-78; 8:45 am]

FRIDAY, OCTOBER 13, 1978
PART VI



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

■

PROFESSIONAL STANDARDS REVIEW ORGANIZATION

Imposition of Sanctions on Health Care Practitioners and Providers of Health Care Services

federal register

[4110-35-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

[42 CFR Parts 455 and 474]

PROFESSIONAL STANDARDS REVIEW ORGANIZATION

Imposition of Sanctions on Health Care Practitioners and Providers of Health Care Services

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Proposed rule.

SUMMARY: These regulations would establish procedures under which the Department will invoke sanctions against a practitioner or provider who furnishes or orders items or services which: (1) Are not medically necessary; (2) do not meet professionally recognized standards; or (3) are not properly documented as to the medical necessity or quality of the services. The regulations would also explain the role of the medicaid State agency and establish the rights and responsibilities of the practitioner or provider, the Professional Standards Review Organization (PSRO), the Statewide Professional Standards Review Council, and the Health Care Financing Administration in this process.

The regulations would implement section 1160 of the Social Security Act and apply to health care services for which payment may be made under that Act. The purpose of the sanction process is to discipline providers and practitioners and protect the public.

DATE: Consideration will be given to comments or suggestions received by December 12, 1978.

ADDRESSES: Address comments to: Administrator, Health Care Financing Administration, Department of Health, Education, Welfare, P.O. Box 2382, Washington, D.C. 20013.

When commenting, please refer to file code HSQ-2-P Agencies and orgainzations are requested to submit their comments in duplicate.

Comments will be available for public inspection, beginning approximatley 2 weeks after publication, in room 5321 of the Department offices at 330 C Street SW., Washington, D.C., on Monday through Friday of each week from 8:30 a.m. to 5 p.m., telephone 202-245-0950.

FOR FURTHER INFORMATION CONTACT:

Anthony J. Tirone, telephone 202-245-2196.

SUPPLEMENTARY INFORMATION:

Background

Section 1160 of the Social Security Act (42 U.S.C. 1320c-9) sets forth certain obligations of all practitioners and providers who furnish, order, or arrange for health care services for which payment may be made under the medicare, medicaid, or maternal and child health programs. These obligations include: Ordering or furnishing only care that is medically necessary; furnishing care which meets professionally recognized standards of quality; and providing such evidence of the medical necessity and quality as a PSRO may reasonably require. There is also an obligation to assure that inpatient care is furnished at the proper type of facility.

PSRO's are required to review health care items and services to insure that practitioners and providers are fulfilling these obligations. If the PSRO finds that the obligations are not being met, section 1157 of the Act (42 U.S.C. 1320c-6) requires that it report its finding to HCFA. HCFA may, as a result of this report, detemine that the practitioner or provider has violated an obligation under the Act and invoke a sanction. The statute authorizes two types of sanctions: Exclusion from the programs and assessment of a monetary penalty. Application of these sanctions differs to some degree between the medicare and medicaid programs.

For medicare, exclusion means that a practitioner or provider will not receive medicare reimbursement for items or services furnished during a specified period and a medicare beneficiary will not be reimbursed for such items and services.

For medicaid, exclusion means that Federal financial participation (FFP) will not be available for State payments for services furnished by a practitioner or provider that has been excluded for violation of an obligation.

A monetary penalty would mean that, as a condition for continued participation in the medicare and medicaid programs, the practitioner or provider that caused the medically improper or unnecessary care to be furnished would be required to reimburse HCFA for the actual or estimated cost (up to $5,000) of such care. The monetary penalty could either be deducted from any sums owed to the practitioner or provider by the United States or paid by the provider or practitioner within 6 months. The monetary penalty would not be withheld from FFP payments to States under the medicaid program.

Role of Practitioners and Providers

Health care practitioners and providers are responsible for the care they furnish to medicare and medicaid patients and for insuring that the obligations specified above are met. The proposed regulation would require practitioners and providers, to make available to PSRO's the information necessary to attest that they are, in fact, meeting these obligations. Therefore, a practitioner or provider that did not allow PSRO access to pertinent records, or did not adequately document the necessity and quality of care, could be subject to sanction.

Role of the PSRO and the Statewide PSRO Council

PSRO's must make known these obligations and provide information (such as the professionally developed norms for quality of care) that is necessary to enable practitioners and providers to comply with their obligations. Moreover, the legislative history makes clear that only after voluntary and educational efforts fail to correct or remedy improper situations should the PSRO submit a report and recommend a sanction. (S. Rept. No. 92-1230, 92d Cong. 2d Sess. (1972), p. 266). The proposed rule, therefore, would require that whenever a PSRO identified a situation that could result in a violation, the PSRO would notify the practitioner or provider and provide information necessary to assist in preventing a violation from occurring. However, if the PSRO determined that a violation had already occurred, it would not be required to furnish this notice and opportunity for correction. In this instance the PSRO woud normally prepare a sanction report.

Before concluding that a violation had occurred, the PSRO woud be required to consider whether the practitioner or provider has either failed to comply substantially with any obligation in a significant number of cases or has violated an obligation in a gross and flagrant manner in one or more instances. A finding under this latter provision woud ordinarily be made only when the services or items involved were so excessive or of such poor quality as to be harmful to an individual.

In keeping with the legislative history, these are the same factors which the statute requires HCFA to consider before it imposes a sanction. (S. Rept. 92-1230, 92d Cong. 2d Sess. (1972), p. 266.)

If the PSRO concluded that violations had occurred, it would have to notify the practitioner or provider of its conclusion and afford them opportunity to submit information or meet with the PSRO. The PSRO would then submit its report to HCFA through the Statewide Professional Standards Review Council (if there is one). The report would recommend that the practitioner or provider be found in violation of an obligation, and the sanction, if any, to be im-

posed. The Statewide Council would review the report and attach a statement of concurrence or nonconcurrence with the PSRO recommendations before transmitting the report to HCFA.

ROLE OF HCFA

This proposed rule sets forth the criteria and process that HCFA would follow in imposing a sanction and the appellate process available to the practitioner or provider. The criteria HCFA would consider include the same factors that were reviewed by the PSRO when it made its recommendation.

The process would include (as required by statute), notice to the practitioner or provider and the public before a sanction was imposed. If the sanction were exclusion, the practitioner or provider and the beneficiaries and recipients would be given at least 15 days notice to enable them to make other arrangements to deliver or obtain health care services. These notice provisions are consistent with those proposed on June 8, 1978 (43 FR 24988), for suspension of practitioners under Medicare.

The statute also provides that the practitioner or provider must have the opportunity for a hearing and judical review of HCFA's determination. The proposed rule provides that, once the determination has been made by HCFA and a sanction imposed, the practitioner or provider could invoke the administrative hearing procedures set forth in 42 CFR Part 405, Subpart O. These procedures include an opportunity for a hearing before an administrative law judge and for judical review of the final administrative decision.

ROLE OF THE MEDICAID STATE AGENCY

The medicaid agency would not participate directly in the PSRO's decision to recommend a sanction. Section 1160(c) of the Act (42 U.S.C. 1320c-9) does provide for the PSRO to consult with the medicaid agency and to request its assistance in assuring that practitioners and providers meet their obligations under section 1160 of the Act. In the event of such a request, the State agency would be expected to exercise whatever influence or authority it may have over the practitioners or providers to achieve compliance with the obligations.

If HCFA decided to impose the sanction of exclusion, it would deny Federal financial participation (FFP) in medicaid payments for the services of a practitioner or provider that had been excluded for violating an obligation. However, it would be the medicaid agency's responsibility to disqualify an excluded practitioner or provider from eligibility to receive payments from the State. If the sanction were a monetary penalty, the State woud not be required to collect the amount of the penalty and HCFA would not withhold it from FFP. The practitioner or provider would pay the monetary penalty directly to HCFA, or have it withheld from other funds due from the Federal Government.

Medicaid regulations at 42 CFR 455.23 would be revised to make clear that FFP will not be available in State payments for services furnished by an excluded practitioner or provider. Cross-references to §§ 405.315-1 and 405.614 are to regulations proposed on June 8, 1978 (43 FR 24988).

REINSTATEMENT

Policies and procedures governing reinstatement of a provider or practitioner after an exclusion were also proposed in the June 8, 1978, notice. When final regulations on exclusion are adopted, those policies will be incorporated by reference in these regulations.

42 CFR Chapter IV is amended as set forth below:

1. Section 455.23 is revised to read as follows:

§ 455.23 Denial of FFP.

(a) No FFP is available in payments for services by a provider or other person who is ineligible to receive payment under medicare:

(1) Because of a determination under § 405.315-1 or § 405.614 of this chapter that the provider or other person has submitted false or excessive claims or furnished services that are substantially in excess of the recipient's needs or of unacceptable quality; or

(2) Because of a determination under § 474.10 of this chapter that the provider or other person has failed to comply with his obligation, as set forth in section 1160(a) of the Act, to:

(i) Order or furnish only care that is medically necessary, of acceptable quality, and at an appropriate level; and

(ii) Furnished such evidence of the medical necessity and quality of the services or items as a Professional Standards Review Organization (PSRO) may reasonably require.

(b) Denial of FFP (1) is effective when the Administrator notifies the agency of the determination; and (2) applies to services furnished after the effective date of exclusion as specified on the exclusion notice.

(c) FFP will be available in services furnished by a provider or other person after he is reinstated.

2. A new part 474 is added to read as follows:

PART 474—IMPOSITION OF SANCTIONS ON HEALTH CARE PRACTITIONERS AND PROVIDERS OF HEALTH CARE SERVICES

Sec.
474.0 Scope and definitions.
474.1 Statutory obligations of practitioners and providers.
474.2 Sanctions.
474.3 PSRO responsibilities.
474.4 Action on potential violation.
474.5 Factors in PSRO determination of a violation.
474.6 Basis for recommended sanction.
474.7 Notice and review of PSRO determination of violation.
474.8 PSRO report to the Statewide Council or to HCFA.
474.9 Role and functions of the Statewide Council.
474.10 Action by HCFA on receipt of the report.
474.14 Effective dates of exclusion.
474.15 Reinstatement after exclusion.
474.17 Right to judicial review.

AUTHORITY: Secs. 1102, 1157, and 1160(b), Social Security Act (42 U.S.C. 1302, 1320, 1320c-6, and 1320c-9).

§ 474.0 Scope and definitions.

(a) *Scope.* This part implements sections 1157 and 1160 of the Act by:

(1) Setting forth certain obligations imposed on practitioners and providers of services under medicare and medicaid;

(2) Establishing criteria and procedures for the reports required from Professional Standards Review Organizations and Statewide Councils when there is failure to meet those obligations;

(3) Specifying the policies and procedures for making determinations on violations and imposing sanctions; and

(4) Establishing policies and procedures for appeals by the affected party or review by HCFA.

(b) *Definitions.* As used in this part, unless the context indicates otherwise:

(1) "Act" means the Social Security Act.

(2) "Beneficiary" means an individual entitled to medicare benefits under title XVIII of the Act.

(3) "Exclusion" means that items or services furnished by a specified health care practitioner or provider will not be reimbursed under medicare, and State medicaid payments for such services are not subject to Federal financial participation.

(4) "Federal financial participation (FFP)" means the Federal share of State payments for services furnished to medicaid recipients.

(5) "HCFA" stands for Health Care Financing Administration.

(6) "Health care services" or "Services" means services or items for which payment may be made (in whole or in part) under the Act.

(7) "Medicaid agency" means the single State agency designated to ad-

minister the medicaid program under title XIX of the Act.

(8) "physician" means a doctor of medicine or osteopathy or another individual who is authorized under State or Federal law to practice medicine and surgery, or osteopathy.

(9) "Practitioner" means a physician or other health care professional licensed under State law to practice his or her profession.

(10) "Provider" means a hospital or other health care facility, agency, or organization.

(11) "PSRO" stands for Professional Standards Review Organization.

(12) "PSRO area" means the geographic area subject to review by a particular PSRO.

(13) "Recipient" means an individual receiving medicaid benefits under title XIX of the Act.

(14) "Statewide Council" means the Statewide Professional Standards Review Council.

§ 474.1 Statutory obligations of practitioners and providers.

(a) It is the obligation of any health care practitioner or provider who furnishes or orders health care services to assure that those services are:

(1) Furnished only when, and to the extent that, they are medically necessary;

(2) Of a quality that meets professionally recognized standards of health care; and

(3) Supported by such evidence of medical necessity and quality as is reasonably required by the PSRO.

(b) A health care practitioner who orders, authorizes, or directs another practitioner or provider to furnish health care services to a patient is responsible, to the extent of his influence or control, for assuring that the health care services are:

(1) Furnished only when, and to the extent, they are medically necessary; and

(2) Of a quality that meets professionally recognized standards of health care.

(c) A health care practitioner or provider must not take any action that would authorize a beneficiary or recipient to be admitted, or to continue, as an inpatient of a hospital or other health care facility unless the practitioner or provider has determined that, consistent with professionally recognized health care standards, the inpatient care is medically necessary, and

(1) Cannot be provided more economically in a health care facility of a different type; or

(2) Although it could be provided more economically in a health care facility of a different type, no such facility is available in the area in which the individual is located, at the time when the care is needed.

§ 474.2 Sanctions.

In addition to any other sanction provided under law, a practitioner or provider may be:

(a) Excluded permanently or for a stated period of time from medicare and medicaid; or

(b) Required, as a condition for continued participation in those programs, to reimburse an amount not in excess of the cost of the improper or unnecessary services that were furnished or ordered, or $5,000, whichever is less. HCFA will either require the practitioner or provider to pay the monetary assessment within 6 months of the date of notice or will have it deducted from any sums owed to the practitioner or provider by the Federal Government.

§ 474.3 PSRO responsibilities.

(a) The PSRO shall identify situations that may result in a violation of the obligations specified in § 474.1 and help to prevent their occurrence as provided in § 474.4.

(b) The PSRO shall determine when a violation of an obligation has occurred and report the matter, with recommendations for action, to the Statewide Council or, if there is no Council, to HCFA.

§ 474.4 Action on potential violation.

If a PSRO identifies a situation that may result in a violation, it shall send the practitioner or provider a written notice containing the following information:

(a) The obligation involved;

(b) The situation, circumstances, or activity which, if continued, may result in a violation;

(c) The authority and responsibility of the PSRO to report a violation of obligations;

(d) A suggested method for correcting the situation and complying with the obligation;

(e) At the discretion of the PSRO, a time period for corrective action by the practitioner or provider;

(f) The sanction that the PSRO could recommend if a violation occurs; and

(g) An invitation to discuss the problem with representatives of the PSRO.

§ 474.5 Factors in PSRO determination of a violation.

If the PSRO identifies a violation, it shall determine:

(a) Which obligation specified in § 474.1 has been violated; and

(b) Whether the practitioner or provider has:

(1) Failed to comply substantially with an obligation, in a significant number of cases; or

(2) Grossly and flagrantly violated an obligation in one or more instances.

§ 474.6 Basis for recommended sanction.

The PSRO's recommendation of the type of sanction to be imposed shall be based on a consideration of:

(a) The type of offense involved;

(b) The severity of the offense;

(c) The anticipated deterrent effect of the recommended sanction;

(d) The previous sanction record of the practitioner or provider; and

(e) Other factors that the PSRO concludes are relevant to a particular case.

§ 474.7 Notice and review of PSRO determination of violation.

(a) *Written notice.* If the PSRO determines that a violation has occurred, it shall promptly give written notice to the practitioner or provider containing the following information:

(1) The determination of a violation;

(2) The obligation violated;

(3) The basis for the determination;

(4) The sanction to be recommended; and

(5) The right of the practitioner or provider to submit to the PSRO, within 20 days of the date on the notice, additional information or a written request for a meeting with the PSRO to review and discuss the determination, or both.

(b) *Review of determination.* (1) The PSRO may, on the basis of additional information submitted by the practitioner or provider, affirm, modify, or reverse its determination or the sanction to be recommended; and

(2) The PSRO shall promptly give written notice to the practitioner or provider of any action it takes as a result of the additional information received.

§ 474.8 PSRO report to the Statewide Council or to HCFA.

(a) *Manner of reporting.* If the PSRO determines that a violation has occurred, it shall submit a report to the Statewide Council or, if there is no Council, directly to HCFA.

(b) *Content of the report.* The PSRO report shall include:

(1) Identification of the practitioner or provider, and in the case of a provider, the name of its director, administrator, or owner;

(2) The type of health care service involved;

(3) A statement of facts describing each failure to comply with an obligation, with specific dates, places, circumstances, and any other relevant information;

(4) Pertinent documentary evidence;

(5) Copies of written corespondence and written summaries of oral exchanges with the practitioner or provider regarding the violation;

(6) The PSRO's finding that the practitioner or provider has violated an obligation under the Act; and

(7) The PSRO's recommendation of the sanction, if any, and the basis for that recommendation.

§ 474.9 Role and functions of the Statewide Council.

(a) *Council review and comment.* The Council shall:

(1) Review the report submitted by the PSRO to assure that it is complete and complies with all requirements set forth in § 474.8(b); and

(2) Prepare a statement concuring or nonconcurring with the PSRO's recommended action, and identifying any areas in which the PSRO report is incomplete.

(b) *Transmittal to HCFA.* The Council shall promptly transmit to HCFA the PSRO report and its statement of concurrence of nonconcurrence, with any additional comments or recomendatons.

§ 474.10 Action by HCFA on receipt of the report.

(a) *Determination of violation.* HCFA will review the PSRO report and determine (on the basis of the factors specified in § 474.5) whether a violation has occurred.

(b) *Determination of sanction.* If HCFA concludes that there is a violation, it will determine whether to impose a sanction after considering:

(1) The recommendation of the PSRO and the Statewide Council;

(2) The type of offense;

(3) The severity of the offense;

(4) The anticipated deterrent effect of the sanction;

(5) The previous sanction record of the practitioner or provider;

(6) Availability of alternative sources of services in the community; and

(7) Any other matters relevant to the particular case.

(c) *Notice to provider or practitioner.* (1) HCFA will notify the provider or practitioner of an adverse determination and of the sanction to be imposed at least 15 days before the effective date of the sanction.

(2) The notice will specify:

(i) The basis for the determination;

(ii) The sanction to be imposed;

(iii) The effective date and, if appropriate, the duration of the exclusion;

(iv) The appeal rights of the practitioner or provider; and

(v) In the case of exclusion, the earliest date on which HCFA will accept a request for reinstatement.

(d) *Public notice.* HCFA will notify the public by publication in a newspaper of general circulation in the PSRO area. The notice will identify the sanctioned provider or practitioner; specify the sanction imposed; and if the sanction is exclusion, the effective date and duration.

(e) *Notice to other affected entities.* HCFA will give notice, as appropriate, to:

(1) The PSRO that originated the sanction report and the Statewide Council involved;

(2) State medicaid and title V agencies, State medicaid fraud control units, and State licensing bodies;

(3) Hospitals, skilled nursing facilities, home health agencies, and health maintenance orgainzations (HMO's);

(4) Medical societies and other professional orgainzations; and

(5) Medicare carriers and intermediaries, health care prepayment plans, and other affected agencies and organizations.

(f) *Effect of HCFA determination.* (1) A practitioner or provider dissatisfied with a HCFA determination is entitled to a hearing and review by the appeals council in accordance with §§ 405.1531-405.1595 of this chapter.

(2) The HCFA determination will continue in effect unless revised by a hearing decision.

§ 474.14 Effective dates of exclusion.

(a) *General provisions.* Except as provided in paragraph (b) of this section:

(1) Payment will not be made under medicare to an excluded practitioner or provider and FFP will not be available under medicaid for services furnished by an excluded practitioner or provider after the effective date of exclusion. (See § 455.23 of this chapter.)

(2) Assignment of a beneficiary's claim for services furnished after the effective date of exclusion will not be valid.

(b) *Exceptions.* (1) For inpatient hospital services or posthospital extended care services furnished to a beneficiary or recipient who was admitted before the effective date of exclusion, payment will be available for services provided up to 30 days after that date.

(2) For home health services furnished under a plan established before the effective date of exclusion, payment will be available for services furnished through the end of the calendar year in which exclusion became effective.

(c) *Denial of payment to beneficiaries.* If a beneficiary submits claims for services furnished by an excluded practitioner or provider after the effective date of exclusion:

(1) HCFA will pay the first claim submitted by the beneficiary and immediatley give notice to the beneficiary of the exclusion; and

(2) The beneficiary's right to payment will extend to services provided up to 15 days after the date on the notice.

(d) *Effective date of termination of provider agreement.* For the effective date of termination of a medicare provider agreement under § 405.614, of this chapter, see § 405.615 of this chapter.

§ 474.15 Reinstatement after exclusion.

Exclusion shall remain in effect until HCFA determines, in accordance with § 405.315-1(j) of this chapter, that the reason for the determination has been removed and that there is reasonable assurance that it will not recur.

§ 474.17 Right to judicial review.

Any practitioner or provider dissatisfied with a decision of the appeals council or an administrative law judge (if a request for appeals council review is denied) may file a civil action in accordance with the provisions of section 205(g) of the Act.

(Secs. 1102, 1157, and 1160(b) of the Social Security Act, 42 U.S.C. 1302, 1320c-6 and 1320c-9.)

(Catalog of Federal Domestic Assistance Program Nos. 13.714, Medical Assistance Programs; 13.773, Medicare-Hospital Insurance; 13.774, Medicare-Supplementary Medical Insurance.)

Dated: August 2, 1978.

ROBERT A. DERZON,
Administrator, Health Care Financing Administration.

Approved: September 30, 1978.

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

[FR Doc. 78-29047 Filed 10-12-78; 8:45 am]

federal register

FRIDAY, OCTOBER 13, 1978
PART VII



OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

■

ORGANIZATIONAL CONFLICTS OF INTEREST

Proposed Policy; Invitation for Public Comment and Notice of Public Hearing

[3110-01-M]

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

[32 CFR Ch. I]

[41 CFR Ch. I]

ORGANIZATIONAL CONFLICTS OF INTEREST

Proposed Policy; Invitation for Public Comment and Notice of Public Hearing

AGENCY: Office of Federal Procurement Policy, Office of Management and Budget.

ACTION: Notice of a public hearing and a proposed regulation governing organizational Conflicts of Interest.

SUMMARY: This proposed policy would amend the Federal Procurement Regulations by adding a section 24 and would supersede appendix G of the Armed Services Procurement Regulation (ASPR), and is a revision of the proposed regulation published in the FEDERAL REGISTER, Vol. 42, No. 182, Tuesday, September 20, 1977, page 47223.

The problem of organizational conflicts of interest has received much recent attention by Federal executive agencies and Congress. It is the view of this Office that any attempted solution to this problem—to the extent it involves imposing procurement regulations and contractual requirements—should be uniformly applicable Governmentwide.

This policy is directed to the avoidance of contractual relationships which might encourage contractors to give biased advice and to the reduction of opportunities for contractors to gain an unfair competitive advantage. The policy would require contractors to disclose existing potential organizational conflicts when submitting an offer, and to stay free of conflicts during performance or be terminated.

DATE: Comments must be received on or before December 13, 1978, and a public hearing will be held on November 17, 1978, in Room 2010, NEOB, at 10 a.m. Statements for public hearing should be received prior to November 15, 1978.

ADDRESSES: Comments and request to be scheduled to make statements at the public hearing should be addressed to the Administrator for Federal Procurement Policy, Office of Management and Budget, Washington, D.C. 20503.

Hearing will be held in Room 2010, New Executive Office Building, Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Mr. Jack Nadol, Deputy Associate Administrator for Regulations and Procedures, telephone 202-395-6166.

SUPPLEMENTARY INFORMATION: Under Pub. L. 93-400, authority for Federal procurement policy is vested in the Administrator for Federal Procurement Policy. All executive agency procurement policies, regulations, procedures, and forms are subject to those prescribed by the Administrator.

The Office of Federal Procurement Policy, Office of Management and Budget, is considering the adoption of a policy which would require the use by all Federal executive agencies of regulations and contract clauses governing organizational conflicts of interest.

The "Organizational Conflicts of Interest" regulations and clauses which follow are proposed for mandatory use by all Federal Executive agencies.

SECTION ANALYSIS

Section 2402. Defines organizational conflicts of interest (OCI) as an interest that may diminish objectivity or give unfair competitive advantage. This definition includes the interest of chief executives and directors of an organization to insure that (OCI) rules will not be circumvented by creation of a sister corporation by directors who have no legal affiliation. It also includes subcontractors and consultants so as to reduce another opportunity for abuse.

Section 2403. Lists possible situations where OCI may exist or arise. This is to overcome the belief by many that OCI covers only "hardware exclusion" and restrictive specifications.

Section 2404. Requires offerors to disclose potential OCI. One of the major weaknesses of the current regulation is that no disclosure is required and contracting officers are making awards with little knowledge of potential OCI.

Section 2405. Requires notice in the solicitation that if an OCI could result, a clause to eliminate OCI will be incorporated into the contract. Such a clause could prohibit a contractor from some future work and he should be advised of this prior to making a proposal.

Section 2406. Requires that a solicitation representation be included in all evaluation, consultant, management support, and professional service contracts. The requirement in the first draft that such solicitation notice and clauses be contained in other contracts was deleted since the potential for OCI in such contracts is limited and the administration burden very heavy.

Section 2407-1. The general conflict clause requires the contractor to disclose potential OCI or certify in the absence of any disclosure that there is no conflict of interest, and requires notice to the contracting officer (C.O.) if one arises. It also gives the C.O. the authority to terminate.

LESTER A. FETTIG,
Administrator.

EDITORIAL NOTE.—This proposed policy would amend the Federal Procurement Regulations by adding the following new regulations and would supersede appendix G of the Armed Services Procurement Regulations (ASPR) and is a revision of the proposed regulation published September 20, 1977 (42 FR 47223).

Subpart 1.24—Organizational Conflicts of Interest

Sec.

1.2400 Scope of subpart.
1.2401 Policy.
1.2402 Definitions.
1.2403 Conflict of interest.
1.2404 Disclosure of organizational conflicts of interest.
1.2405 Notices and representations; action required of contracting officers.
1.2406 Disclosure or representation.
1.2407 Contract clauses.
1.2407-1 General contract clause.
1.2407-2 Special contract clause.
1.2408 Contract award when an organizational conflict of interest is present.
1.2409 Action in lieu of termination.
1.24010 Architect-engineering and construction contracts.
1.2411 Subcontracts.
1.2412 Remedies.
1.2413 Specific examples of contractual relationships which constitute an inherent organizational conflict of interest and rules for their avoidance.

Subpart 1.24—Organizational Conflicts of Interest

§ 1.2400 Scope of subpart.

This subpart sets forth policies and procedures regarding organizational conflicts of interest.

§ 1.2401 Policy.

It is the policy of the Government that organizational conflicts of interest connected with the procurement of supplies, construction, and services be identified, prior to award and be adequately eliminated, or neutralized.

§ 1.2402 Definitions.

(a) The term "organizational conflicts of interest" means that a relationship exists whereby an offeror or a contractor (including chief executives and directors, to the extent that they will or do become involved in the performance of the contract, and proposed consultants or subcontractors where they may be in a position to influence the advice or assistance rendered to the Government) (1) has interests which may diminish its capacity to give impartial, technically sound, objective assistance and advice, (2) will result in an unfair competitive advantage. It does not incude the

normal flow of benefits from the performance of a contract.

(b) The term "contractor" means any person, firm, unincorporated association, joint venture, partnership, corporation or affiliate thereof, which is a party to a contract with the United States of America. As used in this definition, the term "affiliate" has the same meaning as provided in 41 CFR Sec. 1-1.601-1(e).

§ 1.2403 Conflict of interest

(a) In addition to other situations contained in § 1.2413, an organizational conflict of interest may exist or arise:

(1) Even though no follow-on procurement is anticipated;

(2) When a contract is awarded on a noncompetitive or a sole source basis;

(3) Even though a hardware exclusion clause may not be appropriate;

(b)(1) An organizational conflict of interest is more likely to be disclosed if a contract is competitive. Accordingly, greater care shall be exercised in the absence of competition.

(2) This regulation does not apply to competitively awarded (1) design-build, turnkey, total package, or multistep contracts; (2) contracts awarded in accordance with OMB Circular A-109; or (3) contracts for performance against functional specifications. The competitive nature of such contracting methods negates OCI.

(c) An organizational conflict of interest is presumed to exist whenever one of the contractual relationships prohibited by paragraph 1-2413 would appear to result.

§ 1.2404 Disclosure of organizational conflicts of interest.

When submitting offers (quotations and proposals) contemplating a negotiated contract for (1) evaluation services and for technical direction, consulting, management support services, and professional services, and (2) or for negotiated solicitations declared by the head of the procuring activity to warrant such disclosure in connection with the procurement of supplies and services, offerors and contractors (with respect to modifications) shall be required to disclose relevant information bearing on the possible existence of any organizational conflicts of interest or complete the representation required by § 1.2406. When the Government finds that an organizational conflict of interest exists or may exist with respect to an offeror or contractor, no contract or contract modification award covered by § 1.2406 shall be made until the organizational conflict of interest has been adequately eliminated or neutralized, except as provided in § 1.2408 below.

§ 1.2405 Notices and representations; action required of contracting officers.

(a) The disclosure or representation required by § 1.2406 is designed to alert the contracting officer to situations or relationships which may constitute either present or anticipated organizational conflicts of interest with respect to a particular offeror or contractor. However, this disclosure or representation may not identify a potential organizational conflict of interest involving a successful offeror that could affect his participation in subsequent procurements arising out of or related to work performed under a contract that results from the solicitation currently under consideration. Accordingly, whenever such potential conflicts are foreseeable by the Government, a special notice also shall be included in the solicitation informing offerors of the fact that such a potential conflict is foreseen and that a special contract clause designed to eliminate or neutralize such conflict will be included in any resultant contract as required by § 1.2407(.2). Such notice shall specify the proposed extent and duration of restrictions to be imposed with respect to participation in subsequent procurements. A fixed term of reasonable duration is measured by the time required to eliminate what would otherwise constitute an unfair competitive advantage. This is a variable; and in no event shall an exclusion be stated which is not related to a specific expiration date or an event certain. The Government shall not determine without notice on an after-the-fact basis that performance of a contract created an organizational conflict of interest with respect to procurements arising out of or related to work performed under that contract.

§ 1.2406 Disclosure or representation.

(a) The disclosure or representation prescribed by this section shall be included in all solicitations, scope modifications, and unsolicited proposals (1) for the conduct of evaluation services and for technical direction, consulting, management support services, and professional services. It may also be employed as otherwise deemed desirable by the heads of agencies.

(b) The offeror shall provide a statement which describes in a concise manner all relevant facts concerning any present or current planned interest (financial, contractural, organizational, or otherwise) relating to the work to be performed hereunder and bearing on whether the offeror has a possible organizational conflict of interest with respect to (1) being able to render impartial, technically sound, and objective assistance or advice, or (2) being given an unfair competitive advantage. The offeror may also provide relevant facts that show how their organizational structure and/or management systems limit their knowledge of possible organization conflicts of interest relating to other division or sections of the organization and how that structure or system would eliminate or neutralize such organizational conflict.

(c) In the absence of any interest referred to above, the offeror shall submit a statement certifying that to its best knowledge and belief no such interest exists.

(d) The Department will review the statement submitted and may require additional relevant information from the offeror. All such information, and any other relevant information known to the Department, will be used to determine whether an award to the offeror may create an organizational conflict of interest. If such organizational conflict of interest is found to exist, the Department may (1) impose appropriate conditions which eliminate or neutralize such conflict, (2) disqualify the offeror, or (3) determine that it is otherwise in the best interests of the United States to contract with the offeror by including appropriate conditions mitigating such conflict in the contract awarded.

(e) Failure to provide the disclosure or execute the representation will be deemed to be a minor informality and the offeror or contractor will be permitted to correct the omission.

(f) Refusal to provide the disclosure or representation and any additional information as required, or the willful nondisclosure or misrepresentation of any relevant interest shall disqualify the offeror or contractor for award.

§ 1.2407 Contract clauses.

§ 1.2407-1 General contract clause.

All contract actions subject to the disclosure or representation requirement of § 1.2406 shall include the following clause:

ORGANIZATIONAL CONFLICTS OF INTEREST—GENERAL

(a) The contractor warrants that, to the best of its knowledge and belief, and except as otherwise disclosed, he does not have any organizational conflict of interest, as defined in the Federal Procurement Regulations (see 41 CFR 1.2402(a)) and the Armed Services Procurement Regulation (see par. 1-2402(a)) or that he has disclosed all relevant information and requested the contracting officer to make a determination with respect to this contract.

(b) The contractor agrees that, if after award he discovers an organizational conflict of interest with respect to this contract, it shall make an immediate and full disclosure in writing to the contracting officer which shall include a description of the action which the contractor has taken or proposes to take to eliminate or neutralize the conflict. The Government may, however, terminate the contract for the conven-

ience of the Government if it would be in the best interests of the Government.

(c) In the event that the contractor was aware of organizational conflict of interest prior to the award of this contract and intentionally did not disclose the conflict to the Contracting Officer, the Government may terminate the contract for default. (End of clause.)

§ 1.2407-2 Special contract clause.

When an organizational conflict of interest is found to exist, it shall be adequately eliminated, or neutralized through the use of an appropriate special contract clause. Examples of the types of clauses which may be employed include but are not limited to the following:

(a) Hardware exclusion clauses which prohibit the acceptance of production contracts following a related nonproduction contract previously performed by the contractor;

(b) Software exclusion clauses;

(c) Clauses which require the contractor, members of his Board of Directors, or his chief executives to eliminate, or neutralize an organizational conflict of interest; and

(d) Clauses which provide for the protection of the confidentiality of data and guard against its unauthorized use.

(e) Clauses that prohibit other segments or divisions of the contractor from becoming invoved in the performance of the contract work or being in a position to influence such work.

The prospective contractor shall be given the opportunity to negotiate the terms and conditions of the clause and its application. The extent and time period of any restrictions shall be specified in the clause.

§ 1.2408 Contract award when an organizational conflict of interest is present.

(a) No contract or modification award of the type defined in § 1.2406(a) shall be made to an offeror or contractor having an organizational conflict of interest with respect to that contract or modification unless:

(1) The conflict has been eliminated or neutralized; or

(2) The contracting officer of the agency determines that the award of the contract would be otherwise in the best interests of the Government. Where such a determination is made, an appropriate written finding and determination shall be placed in the contract file.

(b) Examples of circumstances justifying such a determination include but are not necessarily limited to:

(1) Situations where the public exigency will not otherwise permit; and

(2) Situations where the requirement cannot otherwise be obtained.

§ 1.2409 Action in lieu of termination.

If the contracting officer determines that it would not be in the best interests of the Government to terminate a contract as provided in the clause required by § 11.2407, the contracting officer shall take every reasonable action to eliminate, or otherwise neutralize the organizational conflict of interest.

§ 1.2410 Architect-engineering and construction contracts.

The award of architect-engineering or project manager contracts and follow-on construction contracts or subcontracts to the same contractor is prohibited. However, competitively awarded design-build or turnkey contracts are not prohibited.

§ 1.2411 Subcontracts

The contractor shall require a disclosure or representation in accordance with § 1.2406 from subcontractors and consultants who may be in a position to influence the advice or assistance rendered to the Government and shall include in consultant agreements or in such subcontracts involving performance of work under a prime contract covered by this section, contract clauses in accordance with § 1.2407.

§ 1.2412 Remedies

In addition to other remedies permitted by law or contract, the agency may disqualify a contractor from subsequent agency contracts for a knowing breach of the restriction in this section or for intentional nondisclosure or misrepresentation of any relevant interest required to be disclosed by this section.

§ 1.2413 Specific examples of contractual relationships which constitute an inherent organizational conflict of interest and rules for their avoidance.

Introduction: The following examples illustrate types of organizational conflicts of interest which frequently arise, but they are not all inclusive. They are not rules in the literal sense, but are only examples of the two principles enumerated in the definition of an "organizational conflict of interest" set forth in paragraph 1-2402 above. These two basic principles—(1) preventing conflicting roles and competing interests which might bias a contractor's judgment, and (2) preventing a contractor from gaining an unfair competitive advantage over others—are the fundamental goals which must always be borne in mind in reaching a determination as to the presence or absence of an organizational conflict of interest. Organizational conflicts may involve software and services, as well as hardware. Many consulting and engineering firms, for example, have no hardware capability but may nevertheless perform work under contractual situations giving rise to potential conflicts under the two principles mentioned above. Therefore, the possible need for using both hardware and software exclusion clauses must be considered in appropriate cases, particularly in the field of research studies, technical consultant and management support services and test and evaluation, where objectivity may be influenced or a competitive advantage gained through access to information regarding future Government plans or programs.

(a) If a contractor agrees to provide systems engineering and technical direction or management support for a project without at the same time assuming overall contractual responsibility for:

(1) Development, or

(2) Integration, assembly, and checkout, or

(3) Production or construction,

then that contractor shall not later be allowed to supply the system or any major components construction thereof, or to be a subcontractor or consultant to a supplier of the system or construction or any major components thereof.

Explanation: The contractor occupies a highly influential and responsible position as an agent of the Government both in determining basic concepts of a project and in supervising their execution by other contractors. To assure the objectivity of its services and hence a more soundly planned project, the contractor must not be in a position to make decisions which could favor its own products or services. Furthermore, it would be inconsistent with the managerial responsibility of a contractor for it to be concurrently one of the component supplies or contractors.

(b) If a contractor agrees to prepare and furnish complete specifications covering nondevelopmental items to be used in competitive procurement, that contractor shall not be allowed to furnish such items, either as a prime or subcontractor, for a reasonable period of time including, at least, the initial procurement. This example shall not apply to:

(1) Contractors who furnish at Government request specifications or data with respect to the product they furnished, even though the specifications or data may have been paid for separately or in the price of the product.

(2) Situations where one or more contractors acting as industry representatives assist Government agencies in preparing, refining, or coordinating specifications, regardless of source, which assistance is supervised and controlled by Government representatives.

(3) Contracts for developmental or prototype items.

(4) Competitive contracts awarded pursuant to OMB Circular A-109.

(5) Competition for performance against function specifications.

Explanation: If a single contractor is engaged by the Government to draft complete specifications for nondevelopmental equipment, he should be eliminated for a reasonable time from competition for production based on the specifications. This should be done in order to avoid a situation where he could draft specifications which would favor his own products or capabilities. In this way the Government can be assured of getting unbaised advice as to the content of its specifications and can avoid allegations of favoritism in the award of production contracts. In the development work it is normal to select firms which have done the most advanced work in the field. It is to be expected that these firms will design and develop around their own prior knowledge. Development contractors can frequently start production earlier and more knowledgeably than firms which did not participate in the development, and this affects the time and quality of production, both of which are important to the Government. In many instances the Government may have financed such development. Thus, the development contractor may have an unavoidable competitive advantage which is not considered unfair and no prohibition should be imposed. In instances of cooperation between industry and Government agencies to prepare, refine, or coordinate specifications, there is continuous participation and supervision by Government representatives and, usually, more than one contractor concerned. In these circumstances Government supervision prevents the establishment of specifications oriented to favor a given contractor's products or capabilities.

Illustration A: Company A prepares updated Government specifications for a standard refrigerator to be procured competitively. Company A shall not be allowed for a reasonable period of time to compete for supply of the refrigerator.

Illustration B: Company A designs or develops a new electronic equipment and, as a result of the design or development, prepares specifications. Company A may supply the electronics equipment.

Illustration C: A Tool Company and/or Machinery Company representing the American Tool Institute work under the supervision and control of Government representatives to refine specifications or to clarify the requirements of a specific procurement. These companies may supply the item.

Illustration D: Prior to selection of the Automatic Data Processing (ADP) Equipment, a company is awarded a contract to develop software to automate an Air Force function. Since software can be written to favor a particular vendor's commercial ADP hardware, a potential conflict of interest exists. Accordingly, the company should be barred from at least the initial follow-on ADP hardware procurement using the software developed under its development contract.

Illustration E: A System Engineering and Integration contract is awarded to Company A. As part of its effort it is required to identify and modify commercially available software packages, integrate them into a system, and identify and provide performance specifications for the commercial hardware requirements to operate the resulting system. Since the identified packages and modifications can be biased toward a particular vendor's hardware when used in a follow-on acquisition, Company A should be barred from at least the initial follow-on computer hardware procurement.

Illustration F: A study contract is awarded to Company A to solve a computer interface problem. The effort will require the identification of commercial equipment that will solve the interface problem. Since the vendor's judgment could be biased if allowed to recommend its own equipment, it should be barred from at least the initial follow-on procurement resultant from its interface effort.

(c) If a single contractor, other than a company which has participated in the development or design of a system, agrees to assist a Government agency or a contractor of a Government agency in the preparation of a statement of work, or agrees to provide material leading directly, predictably, and without a delay to a statement of work to be used in the competitive procurement of a system or services, that contractor shall not be allowed to supply the services, or the system or major components thereof, unless it is the sole source. The content of a statement of work shall not be considered predictable if more than one contractor is involved in the preparation of material leading to it.

Explanation: The various services related to a statement of work to be used in a competitive procurement should normally be performed by the Government agency. However, when it is necessary to seek the assistance of contractors, they may often be in a position to favor their own products or capabilities. To overcome this possibility of bias, such contractors are to be prohibited from supplying a system or services procured on the bais of work statements growing out of their services. No prohibitions are imposed on development contractors for the reasons given in the explanation to rule (b).

Illustration A: Company A receives a contract to define the detailed performance characteristics a Government agency will require for the purchase of rocket fuels. A has not developed the particular fuels. At the time the contract is awarded, it is clear to both parties that the performance characteristics arrived at will be used by the Government agency to choose competitively a contractor to develop or produce the fuels. Company A shall not be permitted to bid on this procurement.

Illustration B: Company A receives a contract to prepare a detailed plan for the procurement of services aimed at the advanced scientific and engineering training of a Government agency's personnel. It suggests a curriculum which the agency endorses and incorporates in requests for proposals to various institutions to establish and conduct such training. Company A shall not be permitted to bid on this procurement.

Illustration C: Company A prepares a feasibility study of a new weapons system without proposing in detail the characteristics of a possible final device. It may bid to produce the system or components thereof.

(d) If a contractor gains access to proprietary data of other companies incidental to the performance of a Government contract, the contractor must agree with such companies to protect such data from unauthorized use or disclosure so long as it remains proprietary. In addition, the contractor shall not be permitted to utilize the data for any purpose other than that for which it was furnished to him unless otherwise specifically provided for in his contract or unless written authorization from the owner of the data has been obtained.

Explanation: Proprietary data is information considered so valuable by its owners that it is held secret by them and their licensees. Where a contractor must obtain such data from others for purposes of performing a Government contract, and can obtain it by the leverage of that contract, he will gain an advantage over other companies unless there are restrictions upon his use of the data. Such restrictions are necessary both to protect the data, and to encourage companies to furnish it to contractors when necessary for the performance of a Government contract. The rule is not intended to protect proprietary data furnished voluntarily by companies without limitations as to use, or data which falls into the public domain.

Illustration A: Company A is selected to study the use of lasers in military communications. The Government agency will request that firms doing research in the field make proprietary data available to A. In order to receive the contract, A must agree with such firms to protect any proprietary data it obtains, so long as it remains proprietary, and shall not be permitted to utilize the data in supplying any lasers to the Government agency. While A could not receive a competitively awarded contract to perform additional studies of lasers using such data, it may receive a contract award if it is the sole source.

(e) A contractor who in connection with the performance of a study, consulting or similar contract will be given information by a Department regarding the Department's plans or programs, which is not available to other interested potential contractors shall not be permitted to compete with

such firms for work relating to such plans or programs.

(f) A contractor shall not, without making a full disclosure to the contracting officer, and in the absence of adequate safeguards, be allowed to evaluate or perform other consulting services: (1) Which will necessarily require the evaluation of the contractor's own work product, or (2) with respect to the product or services of any other contractor with which the contractor has an existing consulting relationship.

(g) A contractor performing evaluation or consulting services for the Government in connection with a competitive procurement shall not be permitted to enter into a contractual relationship with the successful offeror with respect to work directly and predictably arising out of or related to the performance of the contract resulting from the competition.

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