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Tuesday
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Highlights

32196 **Mandatory Petroleum Allocation** DOE/ERA establishes special middle distillate set-aside program for participating states; effective 7–1–79

32225 **Mandatory Petroleum Allocation** DOE/ERA proposes inclusion of additional petroleum substitutes in crude oil entitlements program; comments by 8–1–79; requests to speak by 7–10–79; hearing on 7–17–79

32199 **Federally Chartered Savings and Loan Associations** FHLBB grants institutions authority to make, purchase, and participate in variable rate mortgages and sets policy on loan maturity extensions, prepayment time period under refinancing extensions, and consumer disclosures; effective 7–1–79

32289 **Rehabilitation Short-Term Training Projects of Regional Scope** HEW/HDSO announces availability of funds for fiscal year 1979 grants to State vocational rehabilitation agencies and other public or non-profit agencies; applications by 7–13–79

32285, 32287 **Native American Programs** HEW/HDSO announces availability of fiscal year 1979 grant funds to promote Native Hawaiian economic development and fiscal year 1979 and/or 1980 grants for Indian social development; applications by 7–30–79 (2 documents)

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Highlights

32235 **Income Taxes** Treasury/IRS proposes regulations relating to determination of amounts at risk with respect to certain activities; comments and requests for public hearing by 8–6–79

32338 **Noninflationary Pay and Price Behavior** CWPS publishes supplemental Questions and Answers relating to voluntary standards (Part II of this issue)

32223 **Federal Employees Health Benefits** OPM proposes rules regarding benefits for members of medically underserved populations; comments by 8–6–79

32202 **Federal Credit Unions** NCUA issues rules regarding dividend rate and minimum amount requirement for share certificate accounts, new share certificate and share accounts, and minimum penalty provisions on account dividends earned; effective 7–1–79

32344 **Maximum Truck Size and Weight Limits** DOT/Sec'y announces study and investigation of benefits to be obtained from uniformity and establishes Open File; submissions by 10–31–80; meetings 7–13, 7–17, 7–24, and 7–31–79 (Part III of this issue)

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32257 **Wheat, Barley, Oats, and Rye** USDA/ASCS proposes determinations regarding 1980 crops; comments by 8–6–79

32336 **Sunshine Act Meetings**

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Rules and Regulations

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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.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 250

[Amdt. 42]

Donation of Food for Use in United States, Its Territories and Possessions and Areas Under Its Jurisdiction

AGENCY: Food and Nutrition Service.

ACTION: Final rule.

SUMMARY: This amendment to the regulations governing the food donation program incorporates the provisions of section 12(g) of the National School Lunch Act, as amended by the Child Nutrition Amendments of 1978 (Pub. L. 95–627, 92 Stat. 3603). Section 12(g) provides that whoever embezzles, willfully misapplies, steals, or obtains by fraud any child nutrition program funds, assets, or property or whoever receives, conceals, or retains such funds, assets, or property to his use or gain, knowing such funds, assets or property have been embezzled, willfully misapplied, stolen, or obtained by fraud is subject to Federal criminal penalties.

DATE: Effective date: May 29, 1979.

FOR FURTHER INFORMATION CONTACT: Darrel E. Gray, Director, Food Distribution Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, DC 20250, 202–447–8371.

SUPPLEMENTARY INFORMATION: Section 10(a) of Pub. L. 95–627, effective October 1, 1978, added a new section 12(g) to the National School Lunch Act, as amended (42 U.S.C. 1751 et seq.), to provide that whoever embezzles, willfully misapplies, steals, or obtains by fraud any funds, assets, or property that are the subject of a grant or other form of assistance under that act or the Child Nutrition Act of 1966, as amended (42 U.S.C. 1771 et seq.), or whoever receives, conceals, or retains such funds, assets, or property to his use or gain, knowing such funds, assets, or property have been embezzled, willfully misapplied, stolen, or obtained by fraud, shall be fined not more than $10,000 or imprisoned not more than five years, or both, if the value of such funds, assets, or property is more than $100; if the value is less than $100, the maximum penalty is a fine of $1,000 or imprisonment for not more than one year, or both.

Agricultural commodities donated under this part for use in the National School Lunch Program, Summer Food Service Program for Children, and Child Care Food Program, authorized respectively under sections 4, 13, and 17 of the National School Lunch Act, and in the School Breakfast Program, authorized under section 4 of the Child Nutrition Act of 1966, are clearly subject to the Federal prosecution provisions of section 12(g). These provisions would also apply to processed foods containing USDA commodities donated for child nutrition programs as well as to commodity containers and to any funds deriving from the donations, including, but not limited to, proceeds of container sales, commodity storage and delivery charges assessed to recipient agencies, recoveries from losses or damage claims and salvage of commodities.

Responsibility for criminal prosecution of theft, embezzlement, fraud and other types of illegal diversion of commodities has traditionally rested with State or local governments. The United States hitherto generally did not have jurisdiction to prosecute the crimes mentioned after title to commodities had passed to the distributing agency, in accordance with § 250.4(f) of this part. Enactment of Public Law 95–627, however, signifies that passage of title to commodities no longer preempts Federal prosecution for fraudulent misuse of commodities donated for use in child nutrition programs.

The amendments set forth in this rule (1) incorporate the provisions of section 12(g) into the regulations and (2) require distributing agencies to notify the appropriate Food and Nutrition Service Regional Office when they suspect that section 12(g) has been violated. Further, the amendments make clear that Federal prosecution would not relieve any distributing agency of its obligation to pursue claims to obtain restitution of improperly distributed or lost commodities.

Because the provisions of Section 10(a) of Public Law 95–627 are mandatory and were effective October 1, 1978, the Department has determined that compliance with proposed rulemaking and public participation procedures is unnecessary and not in the public interest. These amendments are, therefore, issued as a final rule without the benefit of public comment.

Accordingly, the food distribution regulations are amended, as follows:

1. In § 250.1, a new paragraph (b)(19) is added, as follows:

§ 250.1 General purpose and scope.

* * * * *

(b) *Legislation.* * * *

(19) Section 12(g) of the National School Lunch Act, as amended, which reads as follows:
Whoever embezzles, willfully misapplies, steals, or obtains by fraud any funds, assets, or property that are the subject of a grant or other form of assistance under this Act or the Child Nutrition Act of 1966, whether received directly or indirectly from the United States Department of Agriculture, or whoever receives, conceals, or retains such funds, assets, or property to his use or gain, knowing such funds, assets, or property have been embezzled, willfully misapplied, stolen, or obtained by fraud shall, if such funds, assets, or property are of the value of $100 or more, be fined not more than $10,000 or imprisoned not more than five years, or both, or, if such funds, assets, or property are of a value of less than $100, shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

2. In § 250.10, a new paragraph (a–1) is added, as follows:

§ 250.10 Miscellaneous provisions.

* * * * *

(a–1) *Embezzlement, misuse, theft, or obtainment by fraud of commodities and commodity-related funds, assets, or property in child nutrition programs.* Notwithstanding § 250.4(f) of this part concerning transfer of title to commodities, whoever embezzles, willfully misapplies, steals, or obtains by fraud, commodities donated for use in any program authorized under the

National School Lunch Act, as amended, or the Child Nutrition Act of 1966, as amended, or any funds, assets, or property deriving from such donations or whoever receives, conceals, or retains such commodities, funds, assets, or property to his own use or gain, knowing such commodities, funds, assets, or property have been embezzled, willfully misapplied, stolen, or obtained by fraud, shall be subject to Federal criminal prosecution under section 12(g) of the National School Lunch Act, as amended. For the purpose of this paragraph, "funds, assets, or property" include, but are not limited to, funds accruing from the sources identified in § 250.6(j) of this part, commodities which have been processed into different end products as provided for by § 250.6(m) of this part, and the containers in which commodities have been received from the Department. Distributing agencies shall immediately notify FNSRO of any suspected violation of section 12(g) of the National School Lunch Act to allow the Department, in conjunction with the U.S. Department of Justice, to determine whether Federal criminal prosecution under section 12(g) is warranted. Prosecution of violations under section 12(g) by the Federal Government shall not relieve any distributing agency of its obligation to obtain restitution for improperly distributed or lost commodities, as required by § 250.6(l) of this part.

* * * * *

Note.—A copy of the detailed impact analysis statement for this final rule may be viewed at the Office of the Administrator of the Food and Nutrition Service, Room 726, GHI Building, 500 12th Street, S.W., Washington, D.C. during regular business hours (8:30 a.m. to 5:00 p.m. Monday through Friday) and a copy may be obtained from that person. The reporting and/or recordkeeping requirements contained herein have been submitted to the Office of Management and Budget for approval in accordance with the Federal Reports Act of 1942.

(Catalog of Federal Domestic Assistance Programs No. 10.550.)

Authority: Section 10(a), Pub. L. 95–627, 92 Stat. 3623 (42 U.S.C. 1760).

Dated: May 29, 1979.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 79–17272 Filed 6–4–79; 8:45 am]

BILLING CODE 3410–30–M

Agricultural Marketing Service

7 CFR Part 991

Handling of Hops of Domestic Production; Amendment of Administrative Rules and Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule would authorize additional allotment bases for hops of the Fuggle variety and extend the time the Committee may grant additional bases previously authorized through the marketing year ending July 31, 1986.

EFFECTIVE DATE: July 8, 1979.

FOR FURTHER INFORMATION CONTACT: William J. Higgins (202) 447–5053.

SUPPLEMENTARY INFORMATION: Notice was published in the May 1, 1979, issue of the **Federal Register** (44 FR 25463) of a proposal to amend § 991.138 of Subpart—Administrative Rules and Regulations (7 CFR 991.130–991.601). It was recommended by the Hop Administrative Committee in accordance with the provisions of Marketing Order No. 991, as amended (7 CFR Part 991), regulating the handling of hops of domestic production, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The Committee submitted the one comment received.

Section 991.138 currently specifies the rules under which the Committee annually may grant additional allotment bases to producers to satisfy the demand for hops of the Fuggle variety. Additional allotment bases granted under this section apply only to Fuggle variety hops planted in 1970 prior to June 15, 1970. The total quantity of additional allotment bases granted each year result in annual allotments totalling one million pounds. The amount of the additional allotment base granted to a qualified grower of Fuggle hops is the lesser of: (1) His total sales of such hops during the marketing year from the acreage planted in 1970 prior to June 15, 1970, divided by the allotment percentage of that year; or (2) the quantity per acre which when multiplied by the allotment percentage equals 1,300 pounds per acre.

Currently, there are 2,000 acres of Fuggle hops. In 1978, this acreage produced 2 million pounds of hops at an average yield of 1,000 pounds per acre. With more normal yields of 1,300 pounds per acre, it is estimated that the potential production in the early 1980's would be about 2.5 million pounds. It is also estimated that the demand for Fuggle hops in the early 1980's would be 4.5 million pounds, and more for later years.

In order to encourage growers to expand their acreage of Fuggle hops to meet these needs, the authorization for the 1 million pound special fuggle allotment will be extended through the marketing year ending July 1, 1986. It would otherwise have expired at the end of the 1982–83 marketing year ending July 31, 1983. Also, an additional 2.5 million pounds of special Fuggle allotment will be granted for Fuggles planted in 1979 and 1980 prior to June 15, 1980. This, too, would extend through the marketing year ending July 31, 1986.

In its comment, the committee suggested several minor changes to the proposed rule which clarify meaning. These changes have been incorporated in the rule as established.

After consideration of all relevant matter presented, including that in the notice, the comment received, and information and recommendations submitted by the Committee, and other available information, it is found that to amend the administrative rules and regulations as herein set forth will tend to effectuate the declared policy of the act.

PART 991—HANDLING OF HOPS OF DOMESTIC PRODUCTION

Therefore, § 991.138 of Subpart—Administrative Rules and Regulations (7 CFR 991.130–991.601) is revised to read as follows:

§ 991.138 Additional allotment bases for hops of the Fuggle variety.

(a) Pursuant to § 991.38(b), the Committee may grant additional allotment bases for hops of the Fuggle variety through the marketing year ending July 31, 1986.

(b) Additional allotment bases granted under this section shall be for Fuggles planted in 1970 prior to June 15, 1970, or for Fuggles planted in 1979, or 1980 prior to June 15, 1980, and these plantings may be replaced with new plantings of Fuggle hops on a one-for-one acreage replacement basis. In the case of Fuggles planted in 1970 prior to June 15, 1970, these plantings may also be replaced with Fuggle-type varieties designated as USDA 21040, USDA 21041, USDA 21091 on a replacement basis of two acres of these Fuggle-type varieties for every three acres of Fuggle hops.

(c) Any such additional allotment base may be granted to the person, or that person's successor in interest, who filed in good faith, a written application with the Committee for such base. For Fuggles planted in 1970 prior to June 15,

1970, the application shall have been filed for receipt by the Committee by May 1, 1970, and for Fuggles planted in 1979, or in 1980 prior to June 15, 1980, shall be filed for receipt by the Committe by July 15, 1979. If the total quantity of any marketing year's additional allotment bases (computed on the basis of 1,300 pounds per acre divided by the allotment percentage for such marketing year) applied for pursuant to this section would result in annual allotments therefor totalling more than one million pounds in the case of Fuggles planted in 1970, or 2½ million pounds in the case of Fuggles planted in 1979 or 1980, the Committee shall reduce proportionately the respective amounts of additional allotment bases applied for so as to result in total annual allotments equal to such totals referable to the additional allotment bases.

(d) The written application filed pursuant to paragraph (c) of this section shall contain at least the following information:

(1) The location and number of acres of Fuggles which the applicant planted in 1970 prior to June 15, 1970, or planted or will plant in 1979 or 1980 prior to June 15, 1980;

(2) A statement that the additional allotment base that may be granted to the applicant pursuant to this section will be applicable only to Fuggles covered by the applicant;

(3) A statement that the applicant will make a bona fide effort to produce the annual allotment referable to such additional allotment base; and

(4) If the applicant is currently a producer of Fuggles or Fuggle-type varieties, a statement that the applicant will continue to make a bona fide effort to produce those varieties on existing acreage to the extent of the annual allotment referable to the applicable allotment base.

(e) Each marketing year through the marketing year ending July 31, 1986, the Committee shall grant an additional allotment base to each producer who filed a written application pursuant to paragraph (c) of this section, or to the successor in interest, if it concludes from all available information that the producer will make a bona fide effort during the marketing year to produce the annual allotment referable to such base. If the Committee finds that any producer granted an additional allotment base pursuant to this section, who is an existing producer of hops of the Fuggle variety, fails to make a bona fide effort during the applicable marketing year to produce the annual allotment of Fuggle hops reference to his existing Fuggle acreage, the Committee shall reduce his additional allotment base by an amount equivalent to such unproduced proportion. The amount of additional base granted to any producer for a marketing year shall be the lesser of: (1) The producer's total sales of Fuggle or Fuggle-type varieties during the marketing year from the acreage planted in 1970 prior to June 15, 1970, or planted in 1979 and 1980 prior to June 15, 1980, or as replaced by acreage as provided in paragraph (b) of this section, divided by the allotment percentage for that year; or (2) the quantity per acre which when multiplied by that allotment percentage equals 1,300 pounds per acre of Fuggles or Fuggle-type varieties. The total of all additional allotment bases granted each marketing year, however, shall not exceed the amount resulting by dividing one million pounds in the case of Fuggles planted in 1970 prior to June 15, 1970, or 2.5 million pounds in the case of Fuggles planted in 1979, or 1980 prior to June 15, 1980, by the allotment percentage for that marketing year.

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

Note.—This regulation has not been determined significant under the USDA criteria implementing Executive Order 12044.

Dated: May 31, 1979 to become effective July 8, 1979.

D. S. Kuryloski,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 79-17329 Filed 6-4-79; 8:45 am]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

9 CFR Part 82

Exotic Newcastle Disease and Psittacosis or Ornithosis in Poultry; Areas Released From Quarantine

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to release a portion of San Bernardino County in California, a portion of Forsyth County in North Carolina, and a portion of Harrison County in Texas, from the areas quarantined because of exotic Newcastle disease. Surveillance activity indicates that exotic Newcastle disease no longer exists in the areas released from quarantine. No areas in the States of California and North Carolina remain under quarantine because of exotic Newcastle disease.

EFFECTIVE DATE: May 30, 1979.

FOR FURTHER INFORMATION CONTACT: Dr. M. A. Mixson, USDA, APHIS, VS, Federal Building, Room 748, Hyattsville, MD 20782, 301–436–8073.

SUPPLEMENTARY INFORMATION: This amendment releases a portion of San Bernardino County in California, a portion of Forsyth County in North Carolina, and a portion of Harrison County in Texas, from the areas quarantined because of exotic Newcastle disease under the regulations in 9 CFR Part 82, as amended. Therefore, the restrictions pertaining to the interstate movement of poultry, mynah and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles from quarantined areas, as contained in 9 CFR Part 82, as amended, will no longer apply to the areas released.

PART 82—PSITTACOSIS OR ORNITHOSIS IN POULTRY

Accordingly, Part 82, Title 9, Code of Federal Regulations, is hereby amended in the following respects:

§ 82.3 [Amended]

In § 82.3(a), paragraph (1) relating to the State of California, paragraph (5) relating to the State of North Carolina, and paragraph (8) relating to the State of Texas, paragraph (i) relating to Harrison County are deleted.

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

The amendment relieves certain restrictions no longer deemed necessary to prevent the spread of exotic Newcastle disease. It should be made effective immediately in order to permit affected persons to move poultry, mynah, psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles, interstate from such areas without unnecessary restrictions. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective on or before July 5, 1979.

Further, this final rule has not been designated as "significant," and is being published in accordance with the emergency procedures in Exective Order 12044 and Secretary's Memorandum 1955. It has been determined by J. K. Atwell, Assistant Deputy Administrator, Animal Health Programs, APHIS, VS, USDA, that the emergency nature of this final rule warrants publication without opportunity for public comment or preparation of an impact analysis statement at this time.

This final rule implements the regulations in Part 82. It will be scheduled for review in conjunction with the periodic review of the regulations in that Part required under the provisions of Executive Order 12044 and Secretary's Memorandum 1955.

Done at Washington, D.C., this 30th day of May 1979.

Pierre A. Chaloux,

Deputy Administrator, Veterinary Services.

[FR Doc. 79-17328 Filed 6-4-79; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 211

[Docket No. ERA-R-78-20]

Mandatory Petroleum Allocation Regulations; Amendment To Establish Special Set-Aside Program for Middle Distillates

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final rule.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby adopts an amendment to the Mandatory Petroleum Allocation Regulations which provides, by the adoption of a Special Rule No. 10, for the establishment of a special middle distillate set-aside program for those states electing to participate, effective July 1, 1979. The special set-aside procedures will permit ultimate consumers of middle distillates who have made unsuccessful efforts to obtain supplies for an emergency or hardship to acquire that volume required to meet their certified requirements.

EFFECTIVE DATE: July 1, 1979.

FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Economic Regulatory Administration, Room B 110, 2000 M Street, NW., Washington, D.C. 20461, 202-634-2170.

William E. Caldwell (Regulations and Emergency Planning), Economic Regulatory Administration, Room 2304, 2000 M Street, NW., Washington, D.C. 20461, 202-254-8034.

Charles McCrea (Office of Fuels Regulation), Economic Regulatory Administration, Room 6222-H, 2000 M Street, NW., Washington, D.C. 20461, 202-254-8583.

Jack O. Kendall (Office of General Counsel), Department of Energy, Room 6A-127, 1000 Independence Avenue, SW., Washington, D.C. 20585, 202-252-6739.

SUPPLEMENTARY INFORMATION:

I. Background and Discussion of Major Comments.

II. Special Set-Aside Procedures Adopted.

III. Other Matters.

I. Background and Discussion of Major Comments

On January 12, 1979, we issued a final rule (44 FR 3467, January 17, 1979) which reinstated special middle distillate set-aside procedures for the period January 12 through March 31, 1979 by adopting Special Rule No. 6 for Subpart A of 10 CFR Part 211. At that time we believed that decreasing demand for middle distillates due to the advent of warm weather would make set-aside procedures unnecessary after March 31. However, we requested comments in the January Notice through June 15, 1979 as to what continuing need there might be for a middle distillate set-aside program.

Based on the comments received by late March and other available information, we determined that middle distillate supply shortages would continue beyond March 31. We were especially concerned that middle distillate shortages might interrupt supplies of middle distillates for agricultural and high-priority transportation purposes. Therefore, we adopted, on an emergency basis, a Special Rule No. 7 to Subpart A of Part 211 to extent the availability of special set-aside procedures through June 30, 1979 (44 FR 18640, March 29, 1979). The preamble to Special Rule No. 7 announced a hearing to be held on April 17, 1979 and requested comments to aid us in determining what further action might be necessary in this rulemaking proceeding.

Middle distillate supply projections based on market data available in early May indicated that supply inadequacies would continue after June 30. In view of these projections, we issued a notice (44 FR 28655, May 16, 1979) that the comment period announced in the January Notice would close on May 25, 1979, instead of June 15, 1979 as originally announced. This action was taken to afford us adequate time to review all comments received and take any further action we might deem necessary avoid interruption of the set-aside program.

The hearing scheduled to be held on April 17, 1979 in Washington, D.C. was cancelled since only two parties requested to make oral presentations. However, twenty-one comments concerning the need to extend the special set-aside program were received by May 25, 1979. Those commenting included seven refiners, ten state agencies, the National Governors' Association (NGA), the U.S. Environmental Protection Agency, and two industrial users.

Most refiners were opposed to middle distillate set-aside procedures generally. These commenters indicated that set-aside procedures create disturbances in normal supply channels by delaying distribution of middle distillates until they are released from the state set-asides. Refiners claimed that one effect of such disturbances was increased prices for middle distillates.

Several refiners also commented on the administrative burden associated with the set-aside program. In this regard, they suggested that we avoid repetitious notification requirements under successive special rules.

Three refiners also expressed concern over the inclusion of wholesale purchaser-resellers in any future set-aside program. This group claimed that extending eligibility beyond end-users invites program abuses, since wholesale purchaser-resellers do not actually experience shortages and, therefore, stand only to be in a position to exploit hardship situations.

Fourteen commenters indicated that there would be a continuing need for a middle distillate set-aside program. Nine of these commenters, including eight state agencies and the NGA, recommended that the set-aside program be made permanent. Two other states and the two industrial users requested only a temporary extension of the set-aside program beyond June 30, 1979. The one refiner recognizing any merit in extending the program recommended that set-aside procedures be available on standby basis only.

Four commenters raised the issue as to what percentage of a prime supplier's supplies should be subject to the set-aside program in the event the program was further extended. The two refiners commenting on this issue felt that the current four percent set-aside should be reduced in order to free more middle distillates for distribution through normal channels. Two state offices

requested, however, that the set-aside percentage be increased to permit greater flexibility in making emergency assignments of middle distillates.

Seven commenters, including six state offices and one industrial user, expressed the opinion that set-aside procedures relating to certification of hardship permit too great an opportunity for misuse of the program. These commenters requested that any further extension of the set-aside program provide more stringent certification procedures to insure that assignments of middle distillates would be made only in response to actual hardships or emergencies. In this regard, several commenters also suggested that the ERA establish priorities among end-users.

We have carefully considered the comments of all persons who have participated in this rulemaking proceeding. We recognize that set-aside procedures may create additional administrative burden on suppliers, as well as some inefficiency in middle distillate distribution systems. In view of current and projected middle distillate supply shortages,[1] however, we have concluded that set-aside procedures will be needed indefinitely as a means of insuring adequate supplies of middle distillates to consumers to meet emergency and hardship situations. To achieve the objectives of the set-aside program, we believe it is necessary to permit each state to establish any set-aside percentage up to and including four percent.

We recognize that the inclusion of wholesale purchaser-resellers in the set-aside program permits increased opportunity for misuse of the program. However, we believe the incremental risk is small and, therefore, greatly outweighed by the need to continue the eligibility of wholesale purchaser-resellers to receive middle distillate assignments in order to insure that supplies are made available to end-users experiencing emergency and hardship situations.

We have also decided that it would be inappropriate for us to establish priorities for use by state energy offices in making emergency assignments of the limited middle distillate supplies subject to the set-aside. This decision is based on our continued belief that the state energy offices are in the best position to weigh all relevant factors affecting the seriousness of a particular applicant's situation. However, in this regard we would hope that special consideration would be given to applications requesting emergency supplies of middle distillates for home heating, agricultural production, mass transportation and for other purposes which have historically been treated as high-priority uses under the ERA's policies.

In view of our determination that it will be necessary to continue indefinitely and without interruption the availability of middle distillate supplies to meet emergency and hardship situations, we are adopting an amendment providing for the establishment of a middle distillate set-aside program, effective July 1, 1979.

II. Special Set-Aside Procedures Adopted

Notwithstanding the exemption of middle distillates from controls, Special Rule No. 10 provides for a special set-aside program for middle distillates, effective July 1, 1979, so as to permit assignments to consumers and marketers by state energy offices in those states which have notified the ERA of their election to participate in the set-aside program established by Special Rule No. 10.

A state electing to participate in the set-aside program established by Special Rule No. 10 shall notify each supplier which operates as a prime supplier in the state of such election as well as the percentage of the set-aside. Within 5 days of such notification by a state, a prime supplier shall designate for that state a representative who will act on behalf of the prime supplier with regard to the special procedures provided by Special Rule No. 10. The set-aside will constitute four or less percent, as determined by the state, of a prime supplier's estimated portion of its total supply of middle distillates for the particular month to be sold into the distribution system of the state for consumption therein. The set-aside requirement for a particular month will not be carried over to the following month. States are urged to order the release of any unrequired set-aside volumes as early as possible during the month.

Set-aside volumes will be available for assignment by participating state energy offices to wholesale purchaser-consumers and end-users who have made unsuccessful efforts to obtain supplies to meet an emergency or hardship. Such assignments will be limited to that volume required to satisfy certified requirements and conditioned upon the demonstration of hardship. Assignments may also be made to wholesale purchaser-resellers who are unable to obtain a sufficient volume of product to meet the emergency or hardship needs of those wholesale purchaser-consumers and end-users with whom the wholesale purchaser-reseller had a supplier/purchaser relationship on May 1, 1979.

Applications for assignment of set-aside volumes should be made to the appropriate state energy office which will approve or disapprove the application. Since an assignment will only be made in response to emergency situations, an applicant will not be required to make its application in writing. Each applicant will be required, however, to submit a written certification as to the validity of the emergency or hardship situation to the state energy office within five days of its verbal or written application.

If the state energy office approves an application, it will assign a prime supplier to furnish the applicant an amount from the set-aside. The state energy office will issue to both the applicant and the representative of the prime supplier a document authorizing such assignment. This document will entitle the applicant to receive the assigned volume from any convenient local distributor of the prime supplier from which the set-aside assignment has been made. Such document will expire ten days after issuance unless it has been presented to the prime supplier or a designated local distributor of the prime supplier.

Each month participating state energy offices will submit to the appropriate DOE Regional Office copies of all authorizing documents issued during the previous month and a tabulation of the usage of the middle distillate set-aside during the previous month.

III. Other Matters

In reimposing special set-aside procedures for middle distillates, effective July 1, 1979, we are taking action under section 12(f) of the Emergency Petroleum Allocation Act of 1973 (EPAA, 15 U.S.C. 751 *et seq.*, Pub. L. 93–159, as amended), which permits the establishment of such a regulation upon determination that such action is necessary to and consistent with the attainment of the objectives specified in section 4(b)(1) of the EPAA. In particular, we have determined that this rule will promote public health, safety and welfare (including maintenance of residential heating for individual homes, apartments and similar occupied dwelling units); the maintenance of agricultural operations, including

[1] A discussion of factors contributing to the current tight middle distillate supply situation may be found in the ERA's notice announcing the adoption of a Special Rule No. 9 for Subpart A of 10 CFR Part 211 to provide for the allocation of middle distillates to meet current requirements for agricultural production. *See* 44 FR 28606, May 15, 1979.

farming, ranching, dairy, and fishing activities, and services directly related thereto; and the equitable distribution of refined petroleum products among all regions and areas of the United States, and sectors of the petroleum industry, and among all users.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. 751 *et seq.*, 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, 15 U.S.C. 787 *et seq.*, Pub. L. 93–275, as amended, Pub. L. 94–332, Pub. L. 94–385, Pub. L. 95–70, and Pub. L. 95–91; Energy Policy and Conservation Act, 42 U.S.C. 6201 *et seq.*, Pub. L. 94–163, as amended, Pub. L. 94–385, and Pub. L. 95–70; Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*, Pub. L. 95–91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, Part 211 of Chapter II of Title 10 of the Code of Federal Regulations is amended as set forth below, effective July 1, 1979.

Issued in Washington, D.C., May 31, 1979.

David J. Bardin,

Administrator, Economic Regulatory Administration.

The Appendix to Subpart A of Part 211 is amended by adding Special Rule No. 10 to read as follows:

Special Rule No. 10

Special Set-Aside Procedures for Middle Distillates

1. *Scope.* This Special Rule provides for a set-aside program for middle distillates, effective July 1, 1979, as provided below, notwithstanding the exemption of middle distillates from the Mandatory Petroleum Allocation and Price Regulations effective July 1, 1976.

2. *Provision for middle distillate set-aside.* Notwithstanding the provisions of paragraphs (b) and (c) of § 210.35 of Part 210 of this chapter and of subparagraphs (b)(5) and (6) of § 211.1 of this Part, a set-aside is hereby established, effective July 1, 1979, for designated middle distillates for assignment by State Offices in accordance with the provisions of this Special Rule.

For purposes of this Special Rule the term middle distillates included the following, as defined in § 212.31 of Part 212 of this chapter: No. 1 heating oil, No. 1–D diesel fuel, No. 2 heating oil, No. 2–D diesel fuel and kersoene.

3. *State election to participate in set-aside program.* The special set-aside procedures provided in this Special Rule will not be in effect in a particular State prior to notification to the Office of Fuels Regulation, ERA, by the appropriate State Office that such State elects to participate in the set-aside program provided for by this Special Rule.

4. *State representative.* A state electing to participate shall notify each prime supplier operating within that State of such election. A prime supplier receiving such notification shall designate a representative for that State to act for and on behalf of the prime supplier with respect to set-aside petitions and assignments from the set-aside to be supplied by that prime supplier. The appropriate State Office shall be informed in writing of such designation within five (5) days following the State's notification to the prime supplier of its election to participate. The State Office shall to the maximum extent possible consult with a prime supplier's representative prior to issuing any authorizing document affecting set-aside volumes to be provided by the prime supplier.

5. *Set-aside volume.* A prime supplier shall inform each appropriate participating State Office monthly of the estimated volume of middle distillates to be sold into a State for consumption within that State. The set-aside volume available in a participating State for a particular month shall be that percent elected by the State. The amount will be calculated by multiplying the elected percentage of no more than four (4) percent by each prime supplier's estimated portion of its total supply for that month which will be sold into that State's distribution system for consumption within the State. The set-aside for a particular month cannot be accumulated from prior months or deferred to later months; it shall be made available from stocks of prime suppliers whether directly or through their wholesale purchaser-resellers.

6. *Eligible recipients of set-aside volumes.* The set-aside provided for by this Special Rule shall be utilized by participating State Offices in issuing authorizations to applicants for designated middle distillates to be supplied by a prime supplier to meet hardship and emergency requirements of wholesale purchaser-consumers and end-users. To facilitate relief of the hardship and emergency requirements of wholesale purchaser-consumers and end-users, the State Office may also direct that a wholesale purchaser-reseller be supplied from the set-aside to enable the wholesale purchaser-reseller to supply the emergency and hardship needs of wholesale purchaser-consumers and end-users with whom the wholesale purchaser-reseller had a supplier/purchaser relationship on May 1, 1979.

7. *Term of assignments.* Assignments to eligible end-users and wholesale purchaser-consumers under section 6 of this Special Rule by a State Office shall be made to meet the emergency or hardship conditions being experienced during that period. Assignments to wholesale purchaser-resellers shall be only for the period necessary to preclude hardship and provide emergency requirements to that wholesale purchaser-reseller's wholesale purchaser-consumers and end-users.

8. *Application for assignment.* All applications for assignment under this Special Rule shall be made to the State Office having jurisdiction over the State in which the applicant conducts its business operations, in accordance with the procedures set forth in §§ 205.211–218 of Subpart Q of Part 205 of this chapter with respect to the state set-aside, except as otherwise provided in this Special Rule. Within five (5) days of its application for assignment of middle distillates under these special procedures, an applicant shall submit to the State Office a written certification that such application was for a valid hardship or emergency situation.

9. *Approval of application.* If a State Office approves an application for assignment, it shall assign a prime supplier an amount from the set-aside to the applicant necessary to meet the expressed emergency or hardship condition. To determine an appropriate prime supplier, the State Office may coordinate with the State representatives of prime suppliers.

10. *Authorizing document.* The State Office shall issue to an applicant granted an assignment a document authorizing such assignment. A copy of the authorizing document (or a summary) shall also be provided by the State Office to the designated State representative of the prime supplier assigned to the applicant. An authorizing document not presented to either the prime supplier or a designated local distributor of the prime supplier within ten (10) days of issuance shall expire after that ten-day period. The State Office shall by the twentieth day of each month submit to the appropriate DOE Regional Office copies of all authorizing documents issued during the previous month and a tabulation of the usage of the middle distillate set-aside during the previous month.

11. *Supplier's responsibilities.* When presented with an authorizing document, suppliers shall provide the assigned amount of middle distillates to an applicant. The authorizing document shall entitle the applicant to receive product from any convenient local distributor of the prime supplier from which the set-aside assignment has been made. Wholesale purchaser-resellers of prime suppliers shall, as non-prime suppliers, honor such authorizing documents upon presentation and shall not delay deliveries required by the authorizing documents while confirming such deliveries with the prime supplier. Any non-prime supplier which provides middle distillates pursuant to an authorizing document shall in turn receive from its prime supplier an equivalent volume of the product. The requirements of paragraph (b) of § 210.62 of Part 210 of this chapter continue to apply to suppliers to whom an authorizing document is presented pursuant to this Special Rule to prohibit any form of discrimination (including price discrimination) which has the effect of circumventing, frustrating or impairing the objectives, purposes and intent of this Special Rule.

12. *Prime suppliers.* All prime suppliers shall supply designated middle distillates from their set-aside volume each month, as directed by the State Offices, not to exceed the total set-aside volume for such middle distillates for that month for the State concerned.

13. *Release of set-aside.* At any time during the month, a State Office may order the release of part or all of a prime supplier's set-aside volume through the prime supplier's normal distribution system in the State.

14. *Orders issued by State Offices.* Authorizing documents and other orders issued pursuant to this Special Rule shall be in writing and effective immediately upon presentation to the prime supplier's designated State representative. Authorizing documents shall represent a call on the prime supplier's set-aside volumes for the month of issuance irrespective of the fact that delivery cannot be made until the following month. Any order issued by a State Office pursuant to this Special Rule may be appealed to the DOE Regional Office that has jurisdiction over the State involved, in accordance with the procedures set forth in Subpart H of Part 205 of this chapter. Any appeal from such an order shall be filed within ten (10) days of service of the order from which the appeal is taken. If a State Office fails to take action on an application within ten (10) days of filing, the applicant may treat the application as having been denied in all respects and may appeal therefrom as provided in this section.

[FR Doc. 79-17394 Filed 6-4-79; 8:45 am]

BILLING CODE 6450-01-M

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10 CFR Part 508

Office of Management and Budget, Clearance for Data Collection

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Office of Management and Budget Clearance of Regulations in Part 508 for Data Collection.

SUMMARY: On April 4, 1979, the Economic Regulatory Administration (ERA) issued a Final Rule for Exemption for Use of Natural Gas by Existing Powerplants (44 FR 21230, April 9, 1979). The Office of Management and Budget has reviewed these regulations and has notified ERA that Part 508 has been cleared for data collection purposes until December 31, 1982.

EFFECTIVE DATE: April 27, 1979.

FOR FURTHER INFORMATION CONTACT: John L. Gurney, Regulations and Emergency Planning, Economic Regulatory Administration, Department of Energy, Room 2130, 2000 M Street, NW., Washington, D.C. 20461, 202-254-9766.

Issued in Washington, D.C., May 30, 1979.

David J. Bardin,

Administrator, Economic Regulatory Administration.

[FR Doc. 79-17416 Filed 6-4-79; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 545

[No. 79-303]

Variable Rate Mortgages

May 30, 1979.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: This amendment authorizes Federally chartered savings and loan associations nationwide to make, purchase, and participate in variable rate mortgages; previously, such authorization was determined on a state-by-state basis. The Bank Board believes such investment authority is necessary to offset the costs of paying higher interest rates on savings accounts and to allow a variable rate on a portion of an association's loans just as variable rates are allowed for certain savings instruments. In addition, the regulation regarding extension of loan maturities has been clarified, the time period for prepayment without penalty, in the case of refinancing a variable rate mortgage (VRM), has been extended, and additional consumer disclosures required.

EFFECTIVE DATE: July 1, 1979.

FOR FURTHER INFORMATION, CONTACT: Nancy L. Feldman, Assistant General Counsel, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552, 202-377-6440.

SUPPLEMENTARY INFORMATION: In December, 1978, the Bank Board adopted FHLBB Resolution No. 78-708 (43 FR 59336-59340; December 14, 1978) which authorized a number of new mortgage instruments for use by Federally chartered savings and loan associations. One of these was the variable rate mortgage ("VRM"). The interest rate of this instrument is tied to an index; thus, actual future payments are not known at the time of loan origination.

In order to ensure that consumers would always have a choice between a VRM and a standard fixed-rate mortgage, and that an informed choice could be made, the Bank Board's regulations required that prospective borrowers receive extensive disclosure materials before election of a VRM. In addition, associations have an annual 50 percent origination and purchase portfolio limitation on their VRM activity. These rules, as well as those pertaining to interest-rate adjustments and borrower notification requirements, have been retained, as has the expiration date of December 31, 1982, for VRM authorization.

The expiration date is intended to give the Bank Board sufficient time to assess the value and effect of VRMs in the mortgage market. During this period, the Bank Board will monitor associations offering VRMs to ascertain whether borrowers are being offered an effective choice. Particular attention will be paid to differing terms, if any, and whether both VRM and standard mortgage instruments are being continuously offered during different phases of mortgage-market cycles. The functioning and impact of the index will be watched carefully. Disclosure materials will also be reviewed for accuracy and completeness, and marketing practices scrutinized. The Bank Board intends to prepare and make publicly available a three year report, and such interim reports as it may deem desirable, setting forth findings resulting from the monitoring program.

In addition to these consumer protections, the Bank Board has determined to make two other changes of benefit to VRM borrowers: (1) extension from 60 to 90 days of the period after notification of an interest-rate increase, during which the borrower may prepay the loan without penalty; and (2) a new disclosure requirement that any association which shows in its disclosure materials a payment schedule indicating a decrease in the interest rates or a projection in contrast to the "worst case" schedule required to be shown, must also include a documented ten-year history of the national cost-of-funds index. The Bank Board believes that the 90-day period is necessary to give borrowers the chance to secure alternative financing and complete such transactions, and the historical index information is necessary to enable consumers to assess the likelihood of an optimistic projection actually taking place.

In its December 14 regulations, the Bank Board provided a geographic limitation on VRM investment based on competitive imbalance with other financial institutions' investment activity. Competitive need for Federal associations in a particular state to invest in VRMs was to be determined by the Bank Board on a case-by-case basis, using factors set out in the regulation. The Bank Board now believes that, in order to maintain competitive balance with other financial institutions, Federal associations nationwide must be authorized to offer VRMs, and is hereby lifting the geographic limitation.

The competitive environment for savings and loan associations has changed dramatically in the brief period since variable rate mortgages were authorized in December, 1978, for Federal associations in California. The rapid growth of money market certificates has exacerbated the "lending long and borrowing short" problem of savings and loan associations, creating a severe competitive disadvantage for savings and loan associations as a group relative to other financial institutions with more flexible asset portfolios. Projected future growth of money market certificates, as well as the authorization of new floating ceiling certificates for small savers (see Board Resolution No. 79–304, adopted by the Bank Board today), will intensify that problem in the future.

As of November 30, 1978, money market certificates amounted to an estimated 8.3 percent of total savings balances at all savings and loan associations. At the end of the first ten days of May, money market certificate balances had risen to an estimated 17.3 percent of savings. Actual data from a sample of 247 large associations indicate that money market certificate balances increased from 9.5 percent to 19.6 percent of total savings for these associations. It is estimated that the continued growth of money market certificates and expected popularity of the newly authorized floating ceiling certificate will cause the proportion of total savings deposits in these two categories to exceed 25% by yearend 1979.

While the growth of floating ceiling certificates and money market certificates will mean that a substantial proportion of total savings balances will be paid a high and variable rate, there is no corresponding variable source of income on the asset side. Thus the earnings of savings and loan associations are now exposed to even greater cyclical pressure than in the past when only fixed-ceiling certificates were authorized. This intensified earnings variability generates concerns over the capital adequacy of savings and loan associations and their continued support of the mortgage market. The problem is most severe for savings and loan associations because no other group of lenders holds such a high proportion of long-term fixed-rate assets. Since commercial banks hold large proportions of their assets in short-term and variable-rate investments, their earnings are much more stable over the cycle.

Variable rate mortgages will allow for cyclically more stable mortgage flows, greater stability in housing markets, and the ability for depositors at thrift institutions to earn greater returns on their deposits. They will also give borrowers the right to know and the freedom to choose the mortgage which will have the potential for increase and decrease in interest rates. In this connection, the Bank Board will also shortly be giving consideration to a proposed rollover mortgage instrument. The rollover originally contemplated in the Bank Board's proposed alternative mortgage instrument regulations (43 FR 33254–7; July 31, 1978) was in effect a multi-year VRM, and was merged in the final amendment in the VRM section. The Bank Board will now be considering other variations of the rollover mortgage concept.

On the basis of the foregoing considerations, therefore, the Bank Board has decided to take final action now to eliminate the geographic restriction on VRMs set out at 12 CFR 545.6–2(c)(2)(i) of the Rules and Regulations for the Federal Savings and Loan System, and to allow all Federal associations to make, purchase, and participate in variable rate mortgages in compliance with the requirements of § 545.6–2.

With regard to the VRM index, the Bank Board indicated in the preamble to its December 14 regulations that it was not entirely satisfied with the regional cost-of-funds index adopted at that time, and would continue research toward authorizing other indices if it appeared that such action would be in the public interest. As a result of such activity, the Bank Board, upon reconsideration, has decided to adopt a national cost-of-funds index, in order to reduce confusion among borrowers and lenders and enhance the secondary market potential of VRM instruments. The index is the average cost of funds for all savings and loan associations whose accounts are insured by the Federal Savings and Loan Insurance Corporation. This index is published in the FHLBB *Journal* and is entitled "Average Cost of Funds to FSLIC-Insured Savings and Loan Associations." This index is computed semiannually by the Bank Board.

All VRMs issued under § 545.6–2 prior to the effective date of this change continue to be fully authorized.

This opportunity is taken to correct subdivision § 545.6–2(c)(4)(v)(*b*) relating to the borrower's option, in the event of an interest rate increase, to extend loan maturity up to one-third of the original mortgage term. It was never the Bank Board's intention to allow extension of the loan term to the extent that monthly loan payments would be smaller than they were before the interest rate increase; this could have been the result under the previous language in the event of a small increase and maximum extension, and therefore, the regulatory language has been correspondingly revised.

The Bank Board promulgates this regulatory amendment pursuant to its plenary and exclusive authority to regulate all aspects of the operations of Federal savings and loan associations, as set forth in subsection 5(a) of the Home Owners' Loan Act of 1933, as amended (12 U.S.C. § 1465). The Bank Board considers this exercise of its authority to be preemptive of any state law addressing the subject of a Federal association's ability or right to enter into variable rate mortgages, and any such provision purporting to restrict such right is inapplicable to Federal associations.

The amendments adopted herein in part relieve restriction and in small part add new restrictions to VRM issuance by associations currently authorized to make such loans. The Bank Board regards these changes in the context of balancing modifications and improvements of its existing VRM authority, and believes that it would not be in the public interest to delay a step it deems vital to associations not currently permitted to offer such mortgages in order to offer another period for public notice and comment. The Bank Board notes that full public procedures were carried out several months ago on the VRM issue, and emphasizes that the regulations as hereby amended continue to require that every borrower offered a VRM must also be offered a fair fixed-rate mortgage. For these reasons, the Bank Board finds that notice and public procedure are unnecessary under the provisions of 12 CFR 508.11 and 5 U.S.C. § 553(b).

Accordingly, the Federal Home Loan Bank Board hereby amends its Rules and Regulations for the Federal Savings and Loan System, 12 CFR Part 545, by amending paragraph § 545.6–2(c) to read as set forth below.

PART 545—OPERATIONS

Paragraph § 545.6–2(c) is amended by changing the subject heading of subparagraph (c)(2) and revising subdivision (c)(2)(i), subparagraph (c)(3), and subdivision (c)(4)(v)(*b*), and (*c*), and adding subdivision (c)(5)(ii)(*a*), so that such regulatory provisions,

accompanied here by related provisions reprinted for the reader's convenience, read as follows:

§ 545.6–2 Alternative mortgage instruments.

(a) *General.* Associations making loans pursuant to § 545.6–1(a) of this Part may use the alternative mortgage instruments described in this section, which allow certain payment and other provisions different from those required elsewhere in this Subchapter. All prospective borrowers offered such instruments must also be offered a standard instrument, as described in this section. An association using an alternative mortgage instrument shall obtain and retain in the loan application file a certification signed by the prospective borrower indicating that she has received the disclosure materials specified in this section before electing to take the alternative mortgage instrument.

* * * * *

(c) *Variable-rate mortgage. (1) Description.* The interest rate of this instrument is tied to an index; thus, actual future payments are not known at the time of loan origination. Except as provided in subparagraph (c)(6), interest rates are subject to adjustment every year.

(2) *Authorization.* (i) *General.* A Federal association may make, purchase, or participate in variable rate mortgage loans on real estate if the loans comply with the provisions of this section.

(ii) *Percentage-of-loans limitation.* Not more than 50% of an association's home-mortgage loans by dollar amount made or purchased in any calendar year shall be in variable rate mortgages.

(iii) *"Sunset" provision.* Authority to invest in variable rate mortgages under this section will cease as of December 31, 1982, unless renewed or rescinded at an earlier date by the Board.

(3) *Index.* Associations shall use the latest index of national cost of funds to institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation, as computed by the Board and published in the Federal Home Loan Bank Board Journal under the designation "Average Costs of Funds to FSLIC Insured Savings and Loan Associations, All Districts".

(4) *Interest-rate adjustments.* (i) *Frequency; grace period.* Interest-rate adjustments (and loan payment changes resulting from them) may not be made more than once a year, and the first adjustment may not occur less than one year after the date of the first regular monthly payment.

(ii) *Calculation and timing of adjustments.* The association shall specify the following in the mortgage contract:

(*a*) the month when rate review will take place, basing the new calculation on the most recent index information then available;

(*b*) the date when notification of any adjustment will be made to the borrower; and

(*c*) the annual monthly payment date when any such adjustment shall take effect.

(iii) *Minimum adjustments.* The smallest adjustment (up or down) shall be one tenth of one percent (0.10 percent).

(iv) *Maximum adjustments.* The maximum amount of rate adjustments (up or down) shall be one-half of one percent (0.5 percent) a year, with a maximum net increase of 2.5 percent over the life of the loan. Downward adjustments *must* be made, but increases are at the lender's option. Changes in the index rate which are not taken (either at lender's option in the case of increases or because they are too small or too large, *i.e.*, less than 0.10 or over 0.5 percent in a given year) may be accumulated by the lender in the case of increases, and must be accumulated in the case of decreases, and taken at a later time (but never more than 0.5 percent per year), or used to offset other changes.

(v) *Actions relating to rate increases.* Upon notification of an increase, the borrower shall have the following options:

(*a*) Not respond to the notice; payments will be adjusted upward to reflect higher interest rate;

(*b*) Request that loan maturity be extended up to a maximum of one-third of the original loan term (but not to such an extent that monthly loan payments would be reduced below the original loan payment amount; or

(*c*) Within 90 days of such notification, prepay the loan, either in full or in part, without penalty if the new rate is above the initial loan rate.

(vi) *Actions relating to rate decreases.* Rate decreases shall be applied first to reduction of extended loan maturity (but not below original maturity) and then to reduction of monthly payments; however, loan terms shall not be reduced to such an extent that monthly payments would be increased.

(vii) *Notification requirements.* The borrower shall receive written notification of any rate adjustment at least one month before the date the new rate will take effect. The notification shall include:

(*a*) current and new rates;

(*b*) old and new index rates;

(*c*) accumulated but unused rate changes;

(*d*) current monthly payment and remaining maturity;

(*e*) for increases, a description of borrower's options, including the new payment and maturity if the loan is extended to the maximum; and

(*f*) for decreases, a description of the way the decrease will be applied.

(5) *Disclosure.* Each prospective borrower shall receive materials explaining in reasonably simple terms the type of variable rate mortgage offered and a comparable standard mortgage instrument (with a fixed interest rate, level payments, and full amortization). Such materials shall include:

(i) a side-by-side comparison of differing interest rates and other terms;

(ii) payment schedules for both types of instruments, including a "worst case" schedule for the variable rate mortgage showing every maximum increase at the time it could first occur, the highest possible payment during the loan term, and the total payment in dollars over the full term of each loan (with a notation stating that the total payment for the VRM would be greater in the event of loan extension);

(*a*) If an association includes a payment schedule in its disclosure materials which indicates a decrease in interest rates or a projection in contrast to the "worst case" schedule required to be shown pursuant to this provision, it must include a documented ten-year history of the national cost-of-funds index;

(iii) information regarding the index used;

(iv) a description of borrower's options in the event of an interest-rate increase;

(v) a statement, prominently displayed, that borrowers have the option to elect a standard mortgage instrument; and

(vi) a statement that if the prospective borrower has questions regarding the disclosures, s/he may contact [title, telephone number, and address of officer] at the Federal Home Loan Bank of [————].

(6) *Multi-year variable rate mortgage.* Variable rate mortgages complying with all of the requirements of this paragraph (c) may be made with contractual adjustment periods exceeding one year, in multiples of twelve months. Index-rate changes are accumulated over the period, but the increase or decrease made at adjustment time may not exceed the specified maximum annual

percent multiplied by the number of years in the adjustment period. Maximum increase is 2.5 percent over the life of the loan; there is no maximum decrease. The minimum period for prepayment without penalty shall be 120 days after notification for these instruments.

* * * * *

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. § 1464; Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1947 Supp.)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 79-17406 Filed 6-4-79; 8:45 am]

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NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Share Accounts and Share Certificate Accounts

AGENCY: National Credit Union Administration.

ACTION: Final rule.

SUMMARY: On April 9, 1979, the National Credit Union Administration invited public comment on a proposed rule on share accounts and share certificate accounts (44 FR 21029). The period for receipt of comments expired on May 4, 1979. After consideration of the comments and the views expressed therein (comments received after May 4 were considered) the Administration is:

(1) Amending the dividend rate that may be paid on share certificate accounts from 7¾% to the greater of 7¾% or 100 basis points (1%) below the average 4-year yield for United States Treasury securities as determined and announced by the United States Treasury three business days prior to the first day of the month of issuance. The rate structure for money market certificates and share certificates of $100,000 or more has not been amended.

(2) Authorizing a new type of share certificate account that requires a minimum of 90 days notice of intent to withdraw and further requires additions to the account on a regular basis.

(3) Deleting the minimum amount requirement for share certificate accounts (the minimum amount requirements for money market certificates and share certificates of $100,000 or more have not been amended).

(4) Authorizing the establishment of other types of share accounts not inconsistent with the regulations.

(5) Modifying the minimum required penalty provisions.

EFFECTIVE DATE: Effective July 1, 1979.

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

FOR FURTHER INFORMATION CONTACT: J. Leonard Skiles, Deputy General Counsel, at the above address. Telephone: (202) 632-4870.

SUPPLEMENTARY INFORMATION: In response to the notice of proposed rulemaking, approximately 70 written comments were received. A majority of the commenters favored adoption of the proposed rule. However, some of those commenters expressed concern that increased dividend rates which benefit savers would have an adverse effect on the cost of funds to borrowers. All of the commenters who objected to the proposed rule did so for the same reason. Generally, the commenters considered the increased flexibility permitted Federal credit unions in fashioning share accounts and share certificate accounts to meet the needs of their membership to be highly desirable.

This rule is intended to provide Federal credit unions with greater flexibility to implement savings programs that will benefit to the greatest extent possible the entire membership. Through the promulgation of this rule the Administration is encouraging Federal credit unions to examine their share account and share certificate account programs and develop savings plans that benefit their memberships. In so doing, the Administration has determined that each Federal credit union can best evaluate competitive pressures that may adversely affect its operations and act accordingly if it is provided broad parameters within which to operate and meet member demands. Those broad parameters are reflected in this rule by defining the various types of accounts, deleting certain minimum amount requirements, setting minimum/maximum qualifying periods, requiring that dividend rates may not exceed certain maximums, and when applicable, establishing a minimum penalty. A Federal credit union should have sufficient latitude to create accounts that maximize the savings opportunities of all members, particularly members of low or moderate means, and at the same time provide financial stability and continued viability for the credit union. A discussion of the amendments adopted follows.

1. *Share Account:* The term "share account" has been redefined by deleting reference to minimum balance, split-rate and notice accounts. These amendments were necessary in order to achieve internal consistency in the regulation, minimize operational difficulties presently experienced by Federal credit unions, and to allow Federal credit unions to fashion a broad range of share accounts as long as they comply with other terms and conditions set forth in the regulation. Federal credit unions may still offer what have been defined pursuant to the present regulations as minimum balance accounts, split-rate accounts, notice accounts, or any combinations of such accounts or any other type of account as long as members receive proper notice of all terms and conditions and all terms and conditions are consistent with the regulations. This regulation simply broadens the possibilities available to Federal credit unions to be innovative and tailor their share accounts in a manner which best suits the requirements of their membership.

This rule makes it clear that all Federal credit unions must offer a regular share account. (Section 701.35(b)(1)(ii).) However, there is no requirement that in order to become a member a regular share account must be established. The board of directors of each Federal credit union must determine what is best for the characteristics of its own membership. For example, the board of directors could establish a policy that every member must have a regular share account. Likewise, the board may establish a policy that if a person within the field of membership and otherwise eligible for membership opens any type of account in the credit union, it would satisfy the membership requirement of purchasing shares in the credit union. Whatever policy, it must be applied in a non-discriminatory manner. The definition of regular share account has been amended in the final rule to clarify that a regular share account must qualify for a dividend. That is, Federal credit unions cannot establish regular share accounts that are intended not to earn dividends.

Notwithstanding the mandatory requirement that a regular share account must be offered, Federal credit unions are free to fashion variations of the traditional regular share account that will now qualify as a regular share account. For example, a split-rate account, provided the minimum balance required to establish the account is no greater than the par value of a share and no notice of intent to withdraw on the entire account is required, could be designated as a regular share account. In the preamble to the proposed rule, it

was pointed out that if a Federal credit union has more than one type of account that conceptually could be designated as a regular share account, it would have to designate the amount that would constitute the "regular share account" for purposes of the penalty provisions. With the modifications to the penalty provisions made by this rule, that is no longer necessary. An explanation of the amendments to the penalty provisions is expanded below.

Several commenters wanted to know whether either or both of the following variations on a split-rate account are permissible. The first type is where, for example, a credit union agrees to pay 5½% on amounts up to $500, 6% on the amount over $500 but less than $750 and 6½% on amounts over $750. The second example is where a credit union agrees to pay 5½% on amounts up to $500 but, when the balance rises to between $500 and $750, the credit union pays 6% on the *entire* balance and not just the excess over $500. Either method is permissible and would qualify as a regular share account. However, before the latter method is instituted, credit unions should be aware of the operational and data processing difficulties that might arise. For example, if the balance in the account was over $500 for a few days during the dividend period but at other times was below that level, computations on dividends would become quite complex. Necessary reprogramming of computers will be complex and expensive. However, this is up to the discretion of the Board of Directors.

Pursuant to this regulation, as is the case with the current regulation, a share draft account is a regular share account. For example, the dividend rate on an account accessed by share drafts must be the same as the rate paid on the account designated as the regular share account by that credit union. However, certain clarifications are necessary. A regular share account accessed by share drafts would not preclude the establishment of a type of "hybrid" account incorporating share drafts and elements of split-rate accounts. For example, a Federal credit union could fashion a traditional regular share account (with $5.00 requirement) but only allow access to that account by means of share drafts when the balance in the account was greater than $200.00. This would still fit the definition of regular share account because no minimum balance is required to establish the account or to maintain it and no notice of intent to withdraw is required. When the balance is below $200.00, access would have to be accomplished by another method, such as withdrawal in person or by telephone. When the balance exceeded $200.00, a share draft could be used. This type of account is to be distinguished from an impermissible share draft account that simply requires $200.00 for purposes of establishing membership and for which a penalty would be assessed when the balance was below that minimum. In the permissible account, access by share draft is permitted only over a certain balance. Membership has been established on the first $5.00 share and access by a non-draft method is acceptable. In the non-permissible account, $200.00 is required to establish the account and membership. If a Federal credit union requires separate accounts for share draft purposes, that does not change the nature of the account.

Finally, several commenters requested clarification on how to characterize a notice account that was not accompanied by a contractual savings plan. Such an account is a share account and is subject to the 7% limitation on dividends.

2. *Share Certificate Accounts:* The major substantive amendment relating to the structure of share certificate accounts is the addition of a new type of account—a notice share certificate. Conceptually, it is very similar to a regular notice account. That is, no funds may be withdrawn without incurring a penalty. The notice share certificate account, however, goes one step beyond the requirement that a minimum notice must be given in order to withdraw without being penalized. That is, an essential element of the notice share certificate account is that there must be an underlying written agreement between the member and the credit union whereby the member agrees to make additions to the account on a regular basis. (Section 701.35(a)(2)(ii)(C).) This underlying agreement requirement is extremely important—perhaps the most important procedural aspect in establishing the notice share certificate account.

The agreement should contain the essential elements the credit union considers necessary to protect itself and make the proper disclosures to the member. Obviously, the agreement must contain provisions relating to the frequency and amount of payments. Negotiations of these terms will result in an agreement that is best suited for the member. One caveat must be kept in mind. While the credit union can tailor the savings plans to meet the needs of each member, it must be done on a nondiscriminatory basis.

Since the written agreement is crucial, many commenters requested guidance concerning what issues should be covered. The following list of questions, while not exhaustive, delineates the major areas that should be addressed.

(1) What penalty will be imposed for failure to meet periodic savings requirements? How many missed payments will constitute default? It is the Administration's view that if a Federal credit union fails to enforce the terms of the agreement requiring regular additions to the account, a notice share certificate, as defined in Section 701.35(a)(2)(ii)) has not been established. If the certificate account does not meet the requirements of that section, then the account will be subject to the limitations of a share account.

(2) Will the credit union allow periodic payments in excess of the required amount to receive the premium dividend rate? If so, will the credit union limit such excess amounts? Will additions to the account after notice is provided be permitted? (Of course, the contract should contain the frequency and minimum amount of required payments into the notice share certificate account.) Additions to the account after notice is provided may earn the premium rate if the additions are made pursuant to a written savings plan.

(3) What is the minimum notice period (the 90 days requirement of this rule is only a *minimum)* and when must notice be provided?

(4) What is the term or qualifying period? That is, how long must the member make regular payments to the account? For example, if the credit union requires additions to the account for two years, two years is the qualifying period. It should be noted that a withdrawal of funds below any minimum amount requirement established by the credit union would require imposition of a penalty but not necessarily negate any contractual arrangements that regular additions must continue to be made.

(5) Will notice require that a specific dollar amount be given? Will only a maximum amount have to be given or, perhaps, a range of probable withdrawal amounts?

It cannot be stressed too strongly that the underlying contract is the crux of the notice share certificate account. Federal credit unions are urged to consider carefully all terms and conditions that affect the relationship between itself and the member and incorporate them into contract form prior to implementing a program. Lack of contract specificity

and incomplete coverage of terms and conditions will result in a myriad of problems for all parties. A failure by credit unions to eliminate such problem areas by a thorough agreement may require additional regulations and may result in unnecessary litigation.

Some commenters asked whether a payroll deduction authorization card could constitute the contractual savings plan. While the deduction card could certainly be incorporated into the contract to indicate that the amount of the deduction will constitute the amount of the periodic deposit, in all likelihood it cannot constitute the entire contract agreement as it will not consider all the questions and problems outlined above.

The preamble to the proposed rule indicated a "perpetual" or "standing notice" would not be permitted. Perpetual or standing notice means that the member is permitted to give notice one time, for example, at the time the account is opened, and after the running of the first 90 days a withdrawal can be made at anytime without suffering a penalty. Notices of this type will not be permitted. To permit such a practice would defeat the purpose for requiring notice. A member must affirmatively provide notice of intent to withdraw. The final rule clarifies that a member must also specify when the withdrawal will be effected. However, a grace period following the specified date to allow for unexpected problems is permitted.

One commenter requested clarification on what constitutes the principal amount in the account—specifically, when do dividends become a part of principal? Any accumulated dividends in a share certificate account at the time it is renewed or the maturity is reset because of additions to the account will become a part of the principal and subject to the penalty provisions if withdrawn early. Any amendment that results in an increase in the rate of dividends paid or in a reduction in the maturity constitutes a payment of the share certificate prior to maturity.

Section 701.35(b)(2) requires that share accounts and share certificate accounts offered shall be made available to all members on an equal basis. This does not preclude the board of directors from establishing a limit on the amount of funds that can be placed in the various types of accounts. It simply means that members shall be given an equal opportunity to open that type of account.

Section 701.35(c)(2) currently requires that any changes in the terms and conditions upon renewal must be provided at least 10 days prior to the expiration of the qualifying period. This Section has been amended to delete the requirement for share certificate accounts with qualifying periods of less than 90 days.

3. *Dividend Rate Structure:* Many commenters indicated that the proposed rate structure was simply at a range that is too high for credit unions to afford.

It should be noted that the rate structure was devised to maintain as much consistency as possible with the rate structures governing other financial institutions. This Administration's proposed rule that the dividend rates be increased to the greater of 8¼% or a specified floating rate was keyed, as to the 8¼%, to the maximum rates set for rising rate certificates proposed by the other financial regulatory agencies. Since the final rule governing banks and savings and loans did not incorporate that particular proposal, a lower maximum rate of the greater of 7¾% or 100 basis points below the average 4-year yield for United States Treasury securities was adopted to maintain consistency in the rate maximums. The rate structure only delineates *maximum* allowable dividend rates. Federal credit unions are not required to offer such maximums. It is the duty of each Federal credit union in devising a share account program to carefully establish its own rate structure based upon the character of its members. That is, it must consider the cost of services deemed most desirable by its members, the loan demands of its members and interest rate limitations, the liquidity needs of the credit union itself, and carefully devise a program of share accounts and share certificate accounts at varying terms and maturities. It should be remembered that there is no requirement that a Federal credit union offer any share certificates or any other type of share account except a regular share account.

If a Federal credit union uses the floating rate (100 basis (1%) points below the average 4-year yield) as its ceiling, that ceiling rate will remain in effect for all share certificate accounts issued during the month until the first day of next month when a new ceiling rate will go into effect for accounts issued on or after that date. The ceiling rate established at the time of issue for that account cannot be changed during the period the account is outstanding. Compounding is permitted. The average 4-year yield will be announced three business days prior to the effective date and will represent an average of the 4-year yields for the previous five business days.

4. *Penalty Provisions:* The current regulation requires that any withdrawal prior to maturity is subject to a penalty. The minimum required penalty is a reduction in the dividend rate to that paid on regular share accounts and a forfeiture of up to 90 days dividends. Under the current structure, the amount of the early withdrawal penalty increases significantly the longer the account is maintained. In order to alleviate the severity of this penalty, the penalty provision has been reduced to require a minimum forfeiture of three months dividends, at the rate being paid on the account, on accounts with qualifying periods of one year or less. If the amount withdrawn has been maintained in the account for less than three months, however, all dividends are forfeited. The minimum required early withdrawal penalty for accounts with qualifying periods over one year is a forfeiture of six months dividends at the rate being paid on the accounts. If the amount withdrawn has been maintained in the account for less than six months, however, all dividends are forfeited. No reduction to the regular share account rate will be required. This penalty will apply to all share certificate accounts entered into on or after July 1, 1979. All share certificate accounts entered into prior to July 1, 1979, shall be subject to the penalty provisions then in effect. It is emphasized that the new penalty provisions are the minimum requirements. Federal credit unions are free to impose additional penalties.

While very little comment was received on the penalty provisions, this amendment was considered necessary to, as stated above, lessen the severity of the penalty. Additionally, it is easier to apply; is easier for the public to understand; and is consistent with the approach being taken by the other financial regulatory agencies. To delay amending the regulation at this time could create an unnecessary outflow of funds.

5. *Minimum Amount Requirements:* Several commenters indicated confusion concerning the deletion of the minimum amount requirement for share certificates. This Administration is requiring no minimum amount to establish a share certificate account except on money market certificates and certificates that earn a rate based on money market conditions. The Board of Directors has discretion to set any minimum amount for share certificates or share accounts except regular share accounts.

6. *IRA and Keogh Accounts:* The final regulation modifies the maximum dividend rate that may be paid on IRA

and Keogh accounts to an amount equal to that payable on other share certificate accounts if that rate exceeds 8%. This amendment was necessary to prevent the outflow of retirement funds that could occur if the permissible maximum rate on retirement funds was below that available on other types of certificates or investment vehicles offered by other financial institutions.

7. *Notice Requirements:* A few commenters indicated that the concept of "negative notice" should be allowed not just where the change of account is from one type of regular share account to another type of regular share account, but where the change, no matter what its nature, would result in a "benefit" to the member. The Administration rejects this approach. While it may be true that a member will not object to changes made in his account that will be to his "benefit," the Administration believes that if such "benefit" involves *any* changes in the terms and conditions imposed upon the member, such changes cannot be instituted without the member's consent. Therefore, the only proper and permissible use of "negative notice" is in converting a regular share account to another type of regular share account. However, because affirmative approval by the member could be established by telephone without the expense of mailings, the requirement of *written* approval has been deleted.

Lawrence Connell,

Administrator.

May 30, 1979.

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

Accordingly, Section 701.35 is amended to read as follows:

§ 701.35 Share accounts and share certificate accounts.

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

(1) Share Account means:

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

(ii) Any other account that is not, by definition, either a regular share account or a share certificate account.

(2) Share Certificate Account means:

(i) An account that will earn dividends at a particular rate if held to maturity and on which a penalty shall be assessed for any premature withdrawal. Additions shall reset the maturity of the entire account for a term equal to the original qualifying period, or

(ii) An account that will earn dividends at a particular rate provided:

(A) A notice of a minimum of 90 days of intent to withdraw on a specified date is required;

(B) A penalty is assessed for failure to provide a minimum of 90 days notice; and

(C) Regular additions are made to the account for the duration of the qualifying period pursuant to a written contract or savings plan.

Additions to this type of account shall not reset the maturity of the entire account for a term equal to the original qualifying period.

(3) Premature Withdrawal means:

(i) The withdrawal of all or any portion of the principal amount prior to maturity, or

(ii) The withdrawal of all or any portion of the principal amount prior to providing any required notice.

(b) *Issuance of Share Accounts and Share Certificate Accounts*—(1) The board of directors, by resolution, may establish share accounts with varying dividend rates and share certificate accounts with varying dividend rates and maturities in conformance with the following:

(i) Any terms and conditions prescribed by the board of directors concerning the issuance and maintenance of share accounts and share certificate accounts must be consistent with the requirements of this section; and

(ii) A regular share account as defined in paragraph (a)(1)(i) of this section must be available to all members, either as a separate account or in combination with other account features adopted by the board.

(2) Share accounts and share certificate accounts offered shall be made available to all members on an equal basis. Special share certificate accounts may be established for funds deposited to the credit of, or in which the entire beneficial interest is held by, an individual pursuant to an Individual Retirement Account agreement or Keogh Plan as provided for by § 721.4. Such special share certificate accounts shall be made available on an equal basis to all members who qualify. No officer, director, member of the credit or supervisory committees, employee, or other official appointed or elected, shall be the holder of a share account or any type of share certificate account unless all qualifying members of the credit union are given an equal opportunity to become holders of such accounts.

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

(4) No regular share account may be converted to any other type of account without the express authorization of the account holder.

(c) *Limitations on Share Certificate Accounts*—(1) Qualifying periods shall not be less than 90 days nor more than 6 years, except, however, public unit accounts may be issued with qualifying periods of not less than 30 days nor more than 6 years. Corporate central Federal credit unions, as defined in Part 704 of the Rules and Regulations (12 CFR Part 704), may issue share certificate accounts with qualifying periods of not less than 30 days nor more than 6 years.

(2) Upon maturity, share certificate accounts may be automatically renewed at the same terms and conditions as initially issued, or as may be otherwise provided for in accordance with a written agreement between the holder and the credit union. Notice of any such renewal, changes in the terms and conditions, or expiration of the qualifying period (in addition to the disclosure requirements set forth in subsection (k)) shall be provided at least 10 days prior to the expiration of the qualifying period, except accounts with qualifying periods of less than 90 days.

(3)(i) In case of premature withdrawal of the principal amount which reduces the balance below any required minimum amount, the account shall be cancelled and a penalty pursuant to subsection (d) of this section shall be imposed upon the entire amount evidenced by the share certificate account. If the required minimum amount continues to be met, a penalty pursuant to subsection (d) of this section shall be imposed upon the amount withdrawn (and not upon the remaining balance) and either:

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

(B) the account may be cancelled and a new account issued.

(ii) A share certificate account holder may withdraw any and all dividends previously paid on the share certificate account without incurring a penalty. Any amendment to a share certificate account that results in an increase in the dividend rate or a reduction in the qualifying period constitutes a payment of the account before maturity.

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

(2) The board of directors may establish a penalty to be imposed for failure to comply with any terms or conditions of a share account, other than a regular share account, and a share certificate account.

(3) The board of directors shall establish a penalty to be imposed for premature withdrawal from a share certificate account. The penalty established shall, at a minimum, require:

(i) If the qualifying period is one year or less the member shall forfeit an amount equal to the lesser of:

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

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

(ii) If the qualifying period is greater than one year, the member shall forfeit an amount equal to the lesser of:

(A) All dividends for 180 days on the amount withdrawn, or

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

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

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

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

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

(f) *Rate Specified or Contracted for in Advance*—(1) If specified or contracted for in advance, the dividend rate shall:

(i) For regular share accounts, be expressed as either a single dividend rate or for regular share accounts that earn differing rates for differing balances, each rate shall be expressed; and

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

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

(B) A single dividend rate.

(g) *Maximum Dividend Rate*—A Federal credit union may pay a maximum dividend, expressed as an annual rate, as follows:

(1) 7% on a share account;

(2) On a share certificate account, except as otherwise provided in this subsection, that is issued on or after the first day of every month, up to the greater of 7¾% or 100 basis points (1%) below the average 4-year yield for United States Treasury securities, as determined and announced by the United States Department of Treasury three business days prior to the first day of each month, during the month of issuance of the account;

(3) On a share certificate account which represents an investment of retirement account funds pursuant to § 721.4 that is issued on or after the first day of every month up to the greater of 8% or 100 basis points (1%) below the average 4-year yield for United States Treasury securities, as determined and announced by the United States Department of Treasury three business days prior to the first day of each month, during the month of issuance of the account;

(4) A rate determined by money market conditions on a share certificate account of $100,000 or more; or

(5) In the case of a share certificate account of $10,000 or more having a fixed term or qualifying period of 26 weeks, the maximum dividend rate, which shall not be compounded during the term or qualifying period and may be rounded off only by rounding down, shall be:

(i) one quarter of one percent above the discount rate (auction average on a discount basis) for 26 weeks United States Treasury bills issued on or immediately prior to the date of the purchase of the share certificate if such discount rate is less than 8¾%; or

(ii) 9% if such discount rate is not less than 8¾% and not more than 9%; or

(iii) equal to the discount rate if such discount rate exceeds 9%.

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

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

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

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

(i) Any terms and conditions necessary to earn that dividend at that rate shall be stated;

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

(iii) The basis upon which dividends will be paid; and

(iv) A clear and conspicuous notice stating that Federal regulations prohibit the compounding of dividends during the qualifying period shall be included in the case of share certificates issued pursuant to paragraph (g)(5) of this section.

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

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

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

(i) Any terms or conditions which must be met for the share account or share certificate account to earn dividends at a particular rate;

(ii) The basis of compounding, the basis upon which dividends will be paid and the effect of premature withdrawal;

(iii) That Federal regulations prohibit payment of dividends in excess of available earnings, and in the case of share certificates issued pursuant to paragraph (g)(5) of this section, that Federal regulations prohibit the compounding of dividends during the qualifying period;

(iv) Any penalty imposed for the failure to comply with any terms and conditions;

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

(vi) The disposition of the funds in a share certificate account if it is not renewed; and

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

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

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

[FR Doc. 79-17302 Filed 6-4-79; 8:45 am]

BILLING CODE 7535-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 438

Proprietary Vocational and Home Study Schools; Interpretation of Trade Regulation Rule Definition of "Course"; Publication of Errata to Trade Regulation Rule

AGENCY: Federal Trade Commission.

ACTION: Interpretation of Trade Regulation Rule definition of "course"; correction to FR Doc. 78-36021, appearing at 43 FR 60896, December 28, 1978.

SUMMARY: The Federal Trade Commission has issued an interpretation of its trade regulation rule concerning proprietary vocational schools (16 CFR Part 438). The interpretation clarifies the definition of the term "course" within the meaning of the trade regulation rule. The interpretation states that if a program of study, by its content, manner of promotion, catalog description or other manner, purports to prepare persons for either entry level jobs or full or part-time self-employment or for career advancement with either the same employer or a different employer, the program comes within the definition of "course" as set forth in the vocational school rule (16 CFR 438.1(c)). Programs which "improve or upgrade skills" are covered if they purport to qualify persons to either obtain jobs or get better jobs or positions in the same occupation. This document also corrects an omission to § 438.3(a) by adding subparagraph (6) to exclude persons who have not attended at least one class or submitted one lesson from the disclosure provisions; substitutes forty-two (42) days for twenty-one (21) days in Appendices E, G, I, K, M, O, Q and S; corrects contract provision in Appendices E, K, M, Q and S to provide that the student has the responsibility of returning equipment issued by the school twenty (20) days from cancellation of the enrollment contract and otherwise make the language consistent.

DATE: June 5, 1979.

FOR FURTHER INFORMATION CONTACT: Walter C. Gross III, Federal Trade Commission, PM-H-280, 6th and Pennsylvania Ave., N.W., Washington, D.C. 20580, Telephone: (202) 523-3911.

SUPPLEMENTAL INFORMATION: Federal Trade Commission Interpretation of 16 CFR 438, "Course".

Since the Vocational School Rule was issued, the Commission staff has received numerous requests for clarification as to what constitutes a "course" as defined at § 438.1(b) of the Rule. "Course" is defined in that Section as follows:

(c) *Course.* (1) The term "course" means a residence, correspondence or combination program of study, education, training, or instruction consisting of a series of lessons, and/or classes which are coordinated, arranged, or packaged to constitute a curriculum or program of instruction and sold collectively, so long as the course purports to prepare or qualify individuals, or improve or upgrade the skills individuals need, for employment in any specific occupation, trade, or in job positions requiring mechanical, technical, business, trade, artistic, supervisory, clerical or other skills. (2) The term "course" shall not be construed to include high school equivalency courses or general self-improvement courses which do not purport to offer training necessary to obtain employment in a specific skill or trade.

Under the definition, if a program of study, by its content, manner of promotion, catalog description or other manner, purports to prepare persons for either entry level jobs, full or part-time self-employment or for career advancement with either the same employer or a different employer, the program comes within the Rule's definition of "course." Moreover, programs which "improve or upgrade skills" are covered if they purport to qualify persons to either obtain jobs or get better jobs or positions in the same general occupation. Training which is expressly limited to persons seeking to fulfill continuing education requirements in order to retain a professional or occupational license or standing in a professional society would not be covered.

For example, a course in sales management offered to route salesmen would be covered because it purports to prepare salespersons for a new or different position. On the other hand, a course in sales management limited to persons who are already sales managers would not be covered because it is not improving or upgrading skills for the purpose of obtaining a new or better position. Thus most courses in managerial or supervisory skills would be covered unless they were expressly limited to persons already holding managerial or supervisory positions.

Similarly a program which is limited to teaching welders how to operate a new welding device which represents an improvement in the state of the art would not be covered because it would be for the purpose of improving or upgrading skills necessary or desirable for maintaining the same job. But if the program also taught or purported to teach basic welding principles and skills, it would be covered because it is teaching job entry level skills.

There are many training programs in the techniques and skills of effective selling. Since many of the courses are available to persons wishing to become employed as salespersons as well as those who are already so employed, they come within the Rule's definition of "course." Only if enrollment is expressly limited to employed salespersons would such training not be covered.

Many programs may be considered within the excluded category of self-improvement courses or conversely, vocational courses, depending upon how they are promoted. Program content must be considered in conjunction with the manner of promotion. Some training may be inherently vocational in nature and thus covered by the Rule unless expressly promoted in a non-vocational manner. For example, a TV repair course would normally be covered because the nature of the course is inherently vocational. Nevertheless, the same course of study would not come within the definition of "course" if it is promoted exclusively as a do-it-yourself course and if it contains no units or segments which would only be of use to a person engaged in the business of TV repair.

Sometimes the length of a program can be determinative of coverage under the Rule. A three-hour course in Real Estate Basics would not be covered. No one could reasonably expect to assimilate the skills and knowledge necessary to sell real estate in such a brief time period. However, a course by the same title that offered 300 hours of training in principles of real estate would probably be considered a "course" under the Rule because of its vocational characteristics. Another distinction is applicable to this example. If the content of a "real estate" course were limited to preparing persons already knowledgeable in principles of real estate to take a licensing exam, it would not be covered (*see* the Statement of Basis and Purpose, Part C, 2(a); Federal Register, Vol. 43, No. 250, p. 60803). Of course, if the course taught both the principles of real estate and how to take the examination, it would be covered.

If any program of study or training, regardless of its length or content, is promoted or described in a way that expressly refers to possibilities for employment or earning income, it would come within the definition of "course." (*See* the discussion of courses for civil service exams in the Statement of Basis and Purpose, Part C, 2(a)).

Training such as dance, music or sewing, ordinarily would be primarily recreational in nature and would not be covered by the Rule unless expressly promoted in a manner that would lead potential students to believe that they could obtain employment or earn income through self-employment by taking the training. For example, programs of study which contain units on how to set up a professional studio, or how to market one's finished product would fall within the category of "courses" covered by the Rule, unless it could be demonstrated that they were primarily recreational in nature. On the other hand, there may be courses, such as art, writing and photography, which can have both employment and non-employment objectives. The content and promotion of these courses should be examined closely to ascertain whether the training is primarily vocational or recreational.

Given these general guidelines and examples as to what constitutes a course, how does a school go about determining whether a given training program is a "course" within the meaning of the Rule?

(1) Look at how the program is promoted or described. If promises of jobs, earnings or career advancement are expressed or implied, it is a "course" regardless of length or content.

(2) If the program is "neutrally" promoted or described, *i.e.*, no express or implied jobs or earnings claims and no express limitations on enrollees, consider the content of the course, the students enrolled in the course, and its length to determine whether it is covered:

(a) Decide whether the course is inherently vocational. Does it teach a skill for which there is a job market or opportunity for self-employed practitioners?

(b) Consider the needs of the student who will enroll in the course. Are they vocational, recreational or for self-improvement?

(c) If the skill being taught could satisfy both vocational and recreational needs, are there units of study designed for the vocational practitioners, *i.e.*, how to market the product, how to run a small business, etc.?

(d) Is the program expressly limited to persons who are already employed in a position requiring the skill which is being taught?

If it is still not possible to determine whether a training program is a "course," schools may seek an FTC staff interpretation as to coverage. Staff interpretations, while not binding upon the Commission, may generally be:

If the program is "neutrally" promoted or described, *i.e.*, no express or implied jobs or earnings claims and no express limitations on enrollees, consider the content of the course and its length.

Decide whether the course is inherently vocational. Does it teach a skill for which there is a job market or opportunity for self-employed practitioners? If so, it is covered.

Consider the needs of the student who will enroll in the course. Are they vocational, recreational or for self-improvement? If they are clearly limited to one or both of the latter purposes, then the program is not a "course".

If the skill being taught could satisfy both vocational and recreational needs are there units of study designed for the vocational practioners, *i.e.*, how to market the product, how to run a small business, etc? If so it is covered.

If the program is expressly limited to persons who are already employed in a position requiring the skill which is being taught, it would not be covered.

If it is still not possible to determine whether a training program is a "course", schools may seek an FTC staff interpretation as to coverage. Staff interpretations, while not binding upon the Commission, may generally be: relied upon to pattern a course of conduct until such time as the Commission may take a contrary position. Requests for staff interpretations should be addressed to: Federal Trade Commission, bureau of Consumer Protection, Sixth & Pennsylania Avenue NW., Washington, D.C. 20580. Attention: Vocational School Program.

Requests for interpretations should be accompanied by full description of the training program, copies of all promotional literature referring to the program, sales presentations, catalog descriptions, etc., Federal Trade Commission Errata to 16 CFR 438.

Corrections are made to the appendices as to the refund requirements involving equipment contracts to make them consistent with each other and to incorporate the intent of the Commission as expressed in the rule to make the period for returning equipment and the period for refunding money run consecutively rather than concurrently. An addition to section 438.3(a) is necessary to properly reflect the intent of the Commission as evidenced in the rulemaking record to exclude persons who enroll in courses but do not attend classes or send in any lessons (non-starts) from the drop out disclosures. The definition of "student" was modified by the staff to correct a technical flaw the effect of which was to inadvertently restore non-starts to the status of dropouts.

The following corrections are made to FR Doc. 78–36021, appearing in Federal Register issue for Thursday, December 28, 1978, at 43 FR 60796:

§ 438.3 [Amended]

1. To § 438.3(a), page 60819; add the following subsection:

(6) For purposes of this section the term student does not include a person who has not attended at least one

residence school class, or submitted at least one correspondence lesson.

Appendices E, G, I, K, M, O, Q and S [Amended]

2. To Appendices E, G, I, K, M, O, Q, and S: under *Settling Your Account* delete the last sentence of the next to the last paragraph and substitute: "If you are entitled to a refund, we will send it to you within forty-two (42) days from the day you cancel."

Appendix Q [Amended]

3. To Appendix Q appearing at 43 FR 60826 under *Settling Your Account* delete the last three sentences in the first paragraph and substitute: "Any equipment we provided you for this course must be returned to us within twenty (20) days from the day you cancel this contract or you will owe us the amount shown above."

Appendix E [Amended]

4. To Appendix E: under *Settling Your Account* delete the last sentence in first paragraph and delete period after end of first sentence in the first paragraph and substitute the following: "within two weeks of the day we receive your cancellation. Any equipment we provided you for this course must be returned to us within (20) days from the day you cancel this contract or you will owe us the amount shown above."

Appendices K, M, and S [Amended]

5. To Appendices K, M and S: under *Settling Your Account* add the following after the first sentence in the first paragraph: "Any equipment we provided you for this course must be returned to us within (20) days from the day you cancel this contract or you will owe us the amount shown above."

By direction of the Commission. Commissioner Pitofsky did not participate.

Carol M. Thomas,

Secretary.

[FR Doc. 79-17319 Filed 6-4-79; 8:45 am]

BILLING CODE 6750-01-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 15

Cash Market Positions; Reporting Requirements; Correction

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule relating to cash market positions and quantities of commodities fixed for the purpose of reports filed under Part 19. (43 FR 45828, October 4, 1978).

EFFECTIVE DATE: June 5, 1979.

FOR FURTHER INFORMATION CONTACT: Jane K. Stuckey, Director, Office of the Secretariat, (202) 254-6314.

SUPPLEMENTARY INFORMATION:

In Federal Register Document 78-27823 appearing on page 45828 in the Federal Register of October 4, 1978, paragraph b of § 15.03 should be corrected in the table by changing the quantity of cotton from contracts to bales.

Dated: May 23, 1979.

Jane K. Stuckey,

Director, Office of the Secretariat.

[FR Doc. 79-17339 Filed 6-4-79; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 655

Adverse Effect Wage Rate for Agricultural Employment in the State of Texas

AGENCY: Employment and Training Administration, Labor.

ACTION: Final rule.

SUMMARY: On May 30, 1978, there was published in the Federal Register at 43 FR 22996-22997 a proposal to amend 20 CFR 655.207(b) to require the Administrator, United States Employment Service, annually to publish in the Federal Register an adverse effect wage rate for the temporary employment of nonimmigrant aliens in agriculture in the State of Texas. See also 43 FR 26033 (June 16, 1978). The Employment and Training Administration adopts that proposal and publishes it as an amendment to 20 CFR 655.207(b).

EFFECTIVE DATE: July 5, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Aaron Bodin, Chief, Division of Labor Certification, Office of Technical Services, United States Employment Service, Employment and Training Administration, United States Department of Labor, Room 8410—Patrick Henry Building, 601 "D" Street, NW., Washington, D.C. 20213. Telephone: 202-376-6295.

SUPPLEMENTAL INFORMATION:

Immigration and Naturalization Regulations

1. The Immigration and Naturalization Service (INS) regulations, at 8 CFR 214.2(h)(3)(i), require, in support of petitions by employers for admission of certain non-immigrant aliens into the United States to perform temporary labor, that:

> Either a certification from the Secretary of Labor or his designated representatives stating that qualified persons in the United States are not available and that the employment of the beneficiary will not adversely effect the wages and working conditions of workers in the United States similarly employed, or a notice that such certification cannot be made shall be attached to every non-immigrant visa petition to accord an alien a classification under Section 101(a)(15)(H)(ii) of the [Immigration and Nationality Act.] [8 U.S.C. 1101(a)(15)(H)(ii).]

2. Whether to grant or deny a non-immigrant visa petition under 8 U.S.C. 1101(a)(15)(H)(ii) is solely the decision of INS. It is INS policy, however, as expressed in its above-cited regulation, that, before INS will grant or deny such a visa, it first requests the United States Department of Labor (DOL) to advise INS with respect to two issues:

(a) Whether there are a sufficient number of able, willing, and qualified U.S. workers available to do the work proposed to be done by the alien; and

(b) Whether the employment of the alien will adversely affect the wages and working conditions of similarly employed U.S. workers.

3. If DOL determines that there are no able, willing, qualified, and available U.S. workers, and that the employment of the alien will not adversely affect similarly employed U.S. workers, DOL advises INS of these findings, by issuing a temporary labor certification. The employer who is proposing to use the alien for temporary work then attaches the certification as part of the alien's visa petition, pursuant to 8 CFR 214.2(h)(3)(i).

4. If DOL cannot make one or both of the above findings, DOL so advises INS. DOL may be unable to make the two required findings for any one or more reasons, including:

(a) The employer seeking the temporary labor certification on behalf of the alien has not submitted a proper temporary labor certification application, or has not followed the proper procedural steps.

(b) The employer has not met its burden of proof under section 291 of the INA (8 U.S.C. 1361), that is, the employer has not submitted sufficient evidence of attempts to obtain available U.S.

workers, and/or the employer has not submitted sufficient evidence that the wages and working conditions which the employer is offering will not adversely affect the wages and working conditions of similarly employed U.S. workers. With respect to the burden of proof, 8 U.S.C. 1361 states, in pertinent part that:

> Whenever any person makes application for a visa or any other document required for entry, or makes application for admission, or otherwise attempts to enter the United States, the burden of proof shall be upon such person to establish that he is eligible to receive such visa or such document, or is not subject to exclusion under any provision of this Act.
> * * *

(c) DOL through its own knowledge and experience, finds that U.S. workers are available and/or that an adverse effect on similarly employed U.S. workers will result, and the employer has not met the burden of rebutting DOL's finding or findings.

United States Department of Labor Regulations

5. DOL has published regulations at 20 CFR Part 655, Subpart C, governing the labor certification process for the temporary employment of non-immigrant aliens in the United States in agricultural and logging occupations. Part 655 was promulgated pursuant to the Immigration and Naturalization Service (INS) regulations at 8 CFR 214.2(h)(3)(i), which in turn were issued pursuant to the Immigration and Nationality Act, as amended (INA). 8 U.S.C. 1101 *et seq.*

6. The regulations in 20 CFR Part 655, Subpart C, set forth the factfinding process designed to develop information sufficient to support the granting or denial of a temporary agricultural labor certification. They describe the potential of the Federal-State system of public employment offices for assisting employers in finding available U.S. workers, and how this process is utilized by DOL as a partial basis of information for the certification determination. See also 20 CFR Parts 602, 621, 651–654, and 656–658.

7. Part 655 also sets forth the responsibilities of employers who desire to employ non-immigrant aliens in temporary agricultural and logging jobs. Such employers are required to demonstrate that they have attempted to recruit U.S. workers through advertising, through the Federal-State public employment service system, and by other specified means. The purpose is to assure an adequate test of the availability of U.S. workers to perform the work, and to insure that aliens are not employed under conditions adversely affecting the wages and working conditions of similarly employed U.S. workers.

Adverse Effect Wage Rates

8. Under 20 CFR 655.207, the Administrator, United States Employment Service (USES), must annually publish adverse effect wage rates for various named States. Adverse effect wage rates set forth the minimum wages which an employer applying for a temporary alien labor certification must offer and pay to aliens and similarly employed U.S. workers in order to ensure that the wages of the U.S. workers are not adversely affected. An adverse effect wage rate is either the prevailing wage for the occupation or a somewhat higher wage, computed by the methodology at 20 CFR, 655.207(b).

9. Currently, the Administrator, USES, is required to publish adverse effect wage rates for all agricultural employment in the States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont, New York, Maryland, Virginia, and West Virginia, and for sugar cane employment in the State of Florida. 20 CFR 655.207(b). The adverse effect wage rates for all States are computed under a methodology which has been published numerous times in the **Federal Register.** See, e.g., 41 FR 25018 (June 22, 1976); and 43 FR 10310 (March 10, 1978).

10. While the Administrator, USES, is required to publish adverse effect wage rates for only those States listed in 20 CFR 655.207(b)(2), DOL, for a number of years, has computed rates for the 48 contiguous States according to the published methodology. The rates were not published, since the numbers of applications for temporary employment of aliens in agriculture had been relatively low in those States. The rates for the 48 contiguous States, including Texas were published, at one time, under the regulations in force prior to the promulgation of Part 655, Subpart C. 20 CFR 602.10b(a)(1) (1971); 35 FR 12394 (August 4, 1970).

State of Texas

11. Use of undocumented workers and other non-immigrant aliens clearly results in depressed wages for U.S. workers. For example, while the federal minimum wage was $2.20 per hour in 1977 and $2.30 in 1978, a wage and hour survey by the DOL regional office in Dallas, Texas, revealed that some agricultural employers in the Presidio Valley had been paying aliens, at least prior to 1978, wages below the minimum wage. In these cases, over $200,000.00 was estimated to be due U.S. workers and aliens. Employers in the survey were paying aliens as little as 60 cents per hour for some farm tasks.

12. DOL recently has received applications from some Texas employers for certification of the temporary employment of nonimmigrant aliens in agricultural occupations. Without a formally established adverse effect wage rate, it is anticipated that many of these non-immigrant aliens would be employed at wages close to or below the federal minimum wage, and, in any event, at wages lower than those which would even minimally attract U.S. workers to such employment. As expressed in the mandate from Congress (8 U.S.C. 1101(a)(15)(H)(ii)), the policy of INS (8 CFR 214.2 (h)(i)), and the policy of DOL (20 CFR 655.0(e)), employers must use, wherever possible, U.S. workers rather than aliens. Where "temporary alien workers are admitted, the terms and conditions of their employment must not result in a lowering of the terms and conditions of domestic workers similarly employed." 20 CFR 655.0(e); 43 FR 10312 (March 10, 1978).

13. If employers seeking non-immigrant aliens for temporary agricultural labor offer those aliens, or U.S. workers, wages below the adverse effect wage rate, DOL will determine that similarly employed U.S. workers will be adversely affected. The wages offered and afforded to temporary aliens and to U.S. workers by specific agricultural employers in Texas will be compared to the established adverse effect wage rate. If it is concluded that an adverse effect would result, the ultimate determination of availability of U.S. workers cannot be made. U.S. workers cannot be expected to accept employment under conditions below the established minimum levels. 20 CFR 655.0(d); 43 FR 10312 (March 10, 1978).

14. For the above reasons, DOL proposes to annually compute and publish an adverse effect wage rate for agricultural employment in the State of Texas.

Consideration of Comments

15. Interested parties were invited to submit comments until June 29, 1978, on the proposal to establish an agricultural adverse effect wage rate for the State of Texas. 43 FR 26033 (June 16, 1978). Fourteen parties commented on the proposed amendment. Of the fourteen, ten characterized the adverse effect wage rate as a device to control the influx of undocumented alien workers. Three parties suggested that the adverse effect wage rate would increase the influx of undocumented workers. One

party requested hearings on the establishment of an adverse effect wage rate for Texas. Some of the commenters saw the adverse effect wage rate as a method to assure payment of the Federal minimum wage to farm laborers.

16. DOL has determined that an agricultural adverse effect wage rate is necessary in the State of Texas. The Secretary of Labor has the authority to set such a rate, and has been computing a rate for Texas for a number of years. See, *e.g.*, 35 FR 12394 (August 4, 1970).

17. The adverse effect wage rate is not set to slow the usage of temporary foreign labor in the United States. Its purpose is to insure that the wage rates of similarly employed U.S. workers will not be adversely affected by the importation of low-paid temporary foreign labor.

18. The rate also is not an effort to apply the legal requirements of the Federal minimum wage law to all employers. Adverse effect wage rates apply only to those employers who are seeking to import temporary foreign labor into the United States. Employers applying for temporary labor certifications must agree to comply with all employment-related laws, however. 20 CFR 655.203(b). If the employment is covered by any Federal, State, or local minimum wage law, the employer must comply with that law. See, *e.g.*, 29 U.S.C. 206(a)(5). Thus, a worker in employment under the temporary alien labor certification program which is covered by both an adverse effect wage rate and a minimum wage law must be compensated at the highest of the applicable wage rates.

19. It should be noted that in 1977, DOL conducted a series of hearings relating to the establishment of the regulations at 20 CFR Part 655, Subpart C. See 43 FR 10305 (March 10, 1978); 42 FR 27261 (May 27, 1977); 42 FR 22378 (May 3, 1978); and 42 FR 1619 (March 25, 1977); see also *Agricultural Labor Certification Programs and Small Business: Hearings Before the Senate Select Committee on Small Business*, Part I, 95th Cong., 1st Sess. 38 (statement of William B. Lewis, Administrator, United States Employment Service) (December 20, 1977). In that series, hearings were held in Texas where employers, workers, and other parties commented on the regulations and commented fully on the issues surrounding adverse effect rates.

20. One comment came from a furniture manufacturer, which stated that the new adverse effect wage rate will increase its costs. The company responded to a newspaper account of the regulation in the June 22, 1978, edition of the Austin *American Statesman*. This was a nonresponsive comment, since adverse effect wage rates in 20 CFR 655.207 apply to *only* agricultural employment. There are not at present, except on Guam, adverse effect wage rates set for occupations other than logging and agriculture. 20 CFR Parts 621 and 655. For all other occupations, employers seeking temporary alien labor certifications must pay the prevailing wage. 20 CFR 621.3(b).

21. Finally, a question arose within DOL concerning the application of the published adverse effect wage rate to nonimmigrant alien sheepherders. Historically, sheepherders' pay rates have been treated differently than the rates of other agricultural workers. See 20 CFR 602.10(c)(4) (1966). Sheepherders are out on the range for months at a time, normally are on call 24 hours a day, and receive a set wage per month. For these reasons, 20 CFR 655.207(b)(1) has been amended to exclude sheepherders from the adverse effect rates set pursuant to 20 CFR 655.207(b).

1979 Texas Adverse Effect Rate

22. The Administrator, U.S. Employment Service, will announce the 1979 rate of $3.25 per hour for Texas shortly. Pursuant to 1 CFR 18.2(a), a **Federal Register** document may not combine material that must appear under more than one category in the **Federal Register**, which requires a separate general notice document.

Development of Regulations

23. These regulations were developed under the direction and control of: Mr. William B. Lewis, Administrator, United States Employment Service, Employment and Training Administration, United States Department of Labor, Washington, D.C.

Amendment of Regulation

24. Accordingly, § 655.207(b)(2) of Part 655 of 20 CFR Chapter V is amended to read as follows:

§ 655.207 Adverse effect rates.

* * * * *

(b) For agricultural employment (except sheepherding) in the States listed in paragraph (b)(2) of this section, and for Florida sugar cane work, the adverse effect rate for each year shall be computed by adjusting the prior year's adverse effect rate by the percentage change (from the second year previous to the prior year) in the U.S. Department of Agriculture farm wage rates for agricultural workers. The Administrator shall annually publish adverse effect rates calculated pursuant to this paragraph (b) as a notice in the **Federal Register.**

(2) *List of States.* Connecticut, Maine, Maryland, Massachusetts, New Hampshire, New York, Rhode Island, Texas, Vermont, Virginia, and West Virginia. Other States may be added as appropriate.

(Secretary of Labor's Order No. 4–75, 40 FR 18515).

Signed at Washington, D.C. this 31st day of May, 1979.

Ernest G. Green,

Assistant Secretary for Employment and Training.

[FR Doc. 79–17390 Filed 6–4–79; 8:45 am]

BILLING CODE 4510–30–M

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20 CFR Part 655

Labor Certification Process for the Temporary Employment of Aliens in the United States; Amendment of Regulations

AGENCY: Employment and Training Administration, Labor.

ACTION: Final rulemaking.

SUMMARY: The formula for setting adverse effect wage rates in agriculture, the minimum rates which must be offered temporary aliens and U.S. workers so that the employment of the aliens will not adversely affect the U.S. workers, is amended to provide that the rate may not be lower than the wage rate at 29 U.S.C. 206(a)(1).

EFFECTIVE DATE: June 5, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Aaron Bodin, Chief, Division of Labor Certifications, U.S. Employment Service, U.S. Department of Labor—Room 8410, 601 "D" Street NW., Washington, D.C. 20213, Telephone: 202–376–6295.

SUPPLEMENTARY INFORMATION:

Temporary Employment Certifications

1. The Immigration and Naturalization Service (INS) regulations at 8 CFR 214.2(h)(3)(i) require employers seeking to bring in aliens for temporary labor to obtain a temporary labor certification from the Department of Labor. In pertinent part, the INS regulation requires the certification to state that employment of the alien will not adversely affect the wages or working conditions of similarly employed U.S. workers. Certifications for aliens entering the United States to perform temporary agricultural labor are granted under the process set forth in Subpart C of 20 CFR Part 655. So that the temporary employment of nonimmigrant

aliens in agriculture will not adversely affect the wages of similarly employed U.S. workers, the Department of Labor requires the employers under this program to offer and pay to their alien and U.S. workers at least the adverse effect wage rate for their State. For those States named in 20 CFR 655.207(b)(2), and for sugar cane workers in Florida, an adverse effect wage rate is computed and published in the **Federal Register** each year, according to the formula at 20 CFR 655.207(b). For all other States, the adverse effect wage rate is the prevailing wage for the occupation in the area of employment. 20 CFR 655.207(a).

1979 Adverse Effect Wage Rates

2. This year, the adverse effect wage rate computed according to the formula in 20 CFR 655.207(b)(1) has resulted in a computed rate of $2.86 per hour in Massachusetts and $2.89 per hour in Rhode Island. Both these hourly rates are less than the $2.90 per hour minimum wage set forth in 29 U.S.C. 206(a).

3. Almost all employers would be required to pay the higher of the two hourly rates, in any case, since 20 CFR 655.203(b) requires all agricultural employers under the temporary labor certification program to abide by applicable employment-related laws. Nevertheless, to avoid confusion and the inequities which might result to those few workers paid at the lower rate, the Department of Labor is amending 20 CFR 655.207 to provide that in no case may workers in employment covered by that regulation be paid less than the hourly wage set in 29 U.S.C. 206(a)(1). Of course, pursuant to 20 CFR 655.203(b), if another Federal, State, or local law requires a higher wage, that higher wage must be paid the worker.

Reasons for Final Rulemaking

4. So as to not disrupt the 1979 harvest activities in the States by adding the element of uncertainty which proposed rulemaking would entail, the Department of Labor has determined that the amendment shall be published without a prior proposed rulemaking and shall be effective upon publication in the **Federal Register**. The Department of Labor finds that it is in the public interest, especially in the interest of U.S. agricultural workers in Massachusetts and Rhode Island, to publish the amendment as a final rule effective immediately. This finding is made pursuant to 5 U.S.C. 553(b).

Comments Invited

5. In keeping with the spirit of the Administrative Procedure Act, and with the Department's general policy as set forth at 29 CFR 2.7, the Department invites comments on these rules until: August 6, 1979. Comments must be in writing and addressed to: Mr. William B. Lewis, Administrator, U.S. Employment Service, Employment and Training Administration, U.S. Department of Labor, Room 8000—Patrick Henry Bldg., 601 "D" Street NW., Washington, D.C. 20213.

Promulgation of Regulation

6. Accordingly, 20 CFR 655.207 is amended by adding to it a new paragraph (e) which shall read as follows:

§ 655.207 Adverse effect rates.

* * * * *

(e) In no event shall an adverse effect rate for any year be lower than the hourly wage rate published in 29 U.S.C. 206(a)(1) and currently in effect.

Signed at Washington, D.C., this 30th day of May 1979.

Ernest G. Green,

Assistant Secretary for Employment and Training.

[FR Doc. 79-17392 Filed 6-4-79; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

21 CFR Part 5

Redelegations of Authority From the Commissioner of Food and Drugs; Biological Products

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the regulations for delegations of authority by adding a new delegation of authority to Bureau of Biologics (Bureau) officials. The added authority permits the officials designated to release lots of biological products for distribution. The expanded authorization will expedite the issuance of lot release notices.

EFFECTIVE DATE: June 5, 1979.

FOR FURTHER INFORMATION CONTACT: Robert L. Miller, Office of Management and Operations (HFA-340), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4976.

SUPPLEMENTARY INFORMATION: Subchapter F—Biologics (21 CFR Chapter I, Subchapter F) requires that a written notice of release for certain biological products be received from the Director of the Bureau of Biologics prior to distribution of lots of these products. The authority to issue these lot releases is being expanded to include the Deputy Director, the Associate Director for Compliance, and the Director of the Division of Control Activities of the Bureau. This delegation will permit new procedures to be established within the Bureau to decrease the processing time for the lot releases, thereby ensuring prompt issuance of the lot releases to manufacturers.

Further redelegation of the authority delegated is not authorized. Authority delegated to a position by title may be exercised by a person officially designated to serve in such position in an acting capacity or on a temporary basis, unless prohibited by a restriction written into the document designating him or her as "acting," or unless it is not legally permissible.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and the Public Health Service Act (sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262)), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 5 is amended by adding new § 5.69 to read as follows:

§ 5.69 Notification of release for distribution of biological products.

The Director and Deputy Director of the Bureau of Biologics and the Associate Director for Compliance and the Director of the Division of Control Activities of that Bureau are authorized to issue written notices of release for distribution of licensed biological products, except radioactive biological products, under Subchapter F (Parts 600 through 699) of this chapter.

Effective date. This regulation shall be effective June 5, 1979.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)) and sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262))

Dated: May 29, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-17298 Filed 6-4-79; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 136

[Docket No. 75N-3060]

Revocation of Stayed Standard for Enriched Raisin Bread; Confirmation of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document confirms the effective date of the September 26, 1978 revocation of the stayed standard for enriched raisin bread.

DATE: Effective date confirmed: November 27, 1978.

FOR FURTHER INFORMATION CONTACT: Prince G. Harrill, Bureau of Foods (HFF-411), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-245-1164.

SUPPLEMENTARY INFORMATION: A proposed standard of identity for enriched raisin bread was published in the **Federal Register** of February 12, 1976 (41 FR 6269), in response to a recommendation by the American Bakers Association (ABA) that provision be made for enriched raisin bread conforming to the nutrient requirements of the standard of identity prescribed for enriched white bread (§ 136.115 (21 CFR 136.115)). In the manufacture of enriched white bread, the level of nutrients required can be provided simply by using flour that is enriched in accordance with the standard of identity for enriched flour (§ 137.165 (21 CFR 137.165)). The preamble to the proposal pointed out, however, that in the manufacture of enriched raisin bread with enriched flour some of the enriched flour is displaced by raisins, with the result that the levels of enrichment no longer meet the requirements of § 136.115 unless adjustments are made by the baker. There were no adverse comments on the proposal.

In the **Federal Register** of October 26, 1976 (41 FR 46851), the Food and Drug Administration (FDA) issued a final regulation for the standard of identity for enriched raisin bread that was consistent with the proposal. The ABA filed an objection and requested a hearing. It denied that there is a need for additional enrichment beyond that provided by the use of enriched flour and claimed that additional facilities and costs would be required to supplement the enriched flour with additional enrichment ingredients to meet the requirements of the standard. The regulation was stayed by the filing of ABA's objection and request for a hearing.

In the **Federal Register** of September 26, 1978 (43 FR 43456), FDA revoked the stayed identity standard for enriched raisin bread (§ 136.165 (21 CFR 136.165)) effective November 27, 1978. The revocation notice provided for the filing of objections by October 26, 1978.

In addition to revoking the standard of identity for enriched raisin bread, the notice clarified the labeling requirements for raisin breads that conforms to the requirements of § 136.160 (21 CFR 136.160), except that it is made with enriched flour, enriched brominated flour, or a combination, and for raisin bread that conforms to the nutrient levels in § 136.115 (with additional amounts of nutrients added to compensate for the flour displaced by the raisins). No objections were received. The ABA endorsed the action to revoke the stayed standard. The ABA stated, however, that the association's approval was premised on the understanding that any labeling changes that might be necessary in light of the preamble clarification would not be required until July 1, 1981.

By letter of December 11, 1978, FDA informed ABA that the July 1, 1981 effective date for labeling changes was established in the **Federal Register** of September 29, 1978 (43 FR 44830), for application to mandatory labeling changes in final regulations published after that date. Therefore, the effective date did not apply to the notice revoking the standard for enriched raisin bread, because the preamble clarification did not require any change in labeling that was acceptable before the November 27, 1978 effective date.

Accordingly, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), notice is given that no objections were received. Compliance with the final rule may have begun on November 27, 1978.

Dated: May 29, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-17299 Filed 6-4-79; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Trimethoprim and Sulfadiazine Tablets

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Burroughs Wellcome Co., providing for safe and effective use of a combination antibacterial drug for treating small dogs and puppies.

EFFECTIVE DATE: June 5, 1979.

FOR FURTHER INFORMATION CONTACT: Henry C. Hewitt, Bureau of Veterinary Medicine (HFV-114), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3420.

SUPPLEMENTARY INFORMATION: Burroughs Wellcome Co., 3030 Cornwallis Rd., Research Triangle Park, NC 27709, filed a supplemental NADA (95-614) providing for a 30-milligram (mg) size of the combination proprietary drug product Tribrissen Tablet (5 mg of trimethoprim and 25 mg of sulfadiazine) to facilitate safe treatment of small dogs (under 9 pounds) and puppies. The firm also holds approval under the same NADA for tablets containing 120 mg (20 mg of trimethoprim and 100 mg of sulfadiazine) and 480 mg (80 mg of trimethoprim and 400 mg of sulfadiazine) of the drug. The drug is indicated where control of bacterial infection is required during treatment of acute urinary tract infections, acute bacterial complications of distemper, acute respiratory tract infections, acute alimentary tract infections, wound infections, and abscesses.

In accordance with the provisions of Part 20 (21 CFR Part 20) promulgated under the Freedom of Information Act (5 U.S.C. 552) and § 514.11(e)(2)(ii) of the animal drug regulations (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application is available for public examination at the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82

Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), Part 520 is amended in § 520.2610 by revising paragraphs (a) and (c)(2) and (3) to read as follows:

§ 520.2610 Trimethoprim and sulfadiazine tablets.

(a) *Specifications.* Each tablet contains 30 milligrams (5 milligrams of trimethoprim and 25 milligrams of sulfadiazine), 120 milligrams (20 milligrams of trimethoprim and 100 milligrams of sulfadiazine), or 480 milligrams (80 milligrams of trimethoprim and 400 milligrams of sulfadiazine) of the drug.

* * * * *

(c) * * *

(2) The drug is given orally at 30 milligrams per kilogram of body weight per day (14 milligrams per pound per day), or as follows:

Animal body weight (pounds)	Number of 30 mg tablets
2.2	1
4.4	2
6.6	3
8.8	4
	120 mg tablets
Up to 9	1
10 to 19	2
20 to 29	3
30 to 40	4
	480 mg tablets
30 to 40	1
40 to 60	1½
60 to 80	2
80 to 110	3
Over 110	4

(3) The drug is given once daily. Alternatively, especially in severe infections, the initial dose may be followed by one-half the recommended daily dose every 12 hours. If no improvement is seen in 3 days, discontinue therapy and reevaluate diagnosis.

* * * * *

Effective date. This regulation is effective June 5, 1979.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))).

Dated: May 29, 1979.

Terence Harvey,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 79-17300 Filed 6-4-79; 8:45 am]

BILLING CODE 4110-03-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

24 CFR Part 1911

[Docket No. 1979-6]

National Flood Insurance Program—Insurance Coverage and Rates to Condominium Associations

AGENCY: Office of Federal Insurance and Hazard Mitigation, Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This amendment adds an amendatory endorsement to the Standard Flood Insurance Policy, extending the building coverage provided to condominium associations under certain circumstances, by inclusion of the endorsement in Appendix A to this Part pursuant to § 1911.13(b).

EFFECTIVE DATE: June 1, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Hugh R. Owen, Office of Federal Insurance and Hazard Mitigation, Federal Emergency Management Agency, 451 Seventh Street, S.W., Washington, D.C. 20410, Phone: (202) 755-5914.

SUPPLEMENTARY INFORMATION: This amendment to Appendix A of this Part is in keeping with the requirements of the National Flood Insurance Act of 1968, as amended, § 1911.4 of this Part which expressly stipulates that all flood insurance under the program is subject to the terms and conditions of the Standard Flood Insurance Policy promulgated by the Administrator for substance and form, and § 1911.13(b) which provided that all endorsements to the Standard Flood Insurance Policy shall be final upon publication in the **Federal Register** for inclusion in Appendix A.

The amendment recognizes the unique ownership attributes of condominium-style buildings whereby an association of unit owners owns the building's common elements as tenants in common and individual unit owners own as individuals part of the improved real property contained within their units by providing a degree of building loss coverage to the unit owner derived from the commonly-owned association policy to compensate the unit owner for structural loss in the event that, after responding to the association's loss, the policy's limit of building coverage has not been exhausted. In addition, this benefit is conferred upon unit owners in buildings insured by their condominium associations in recognition of the fact that the policy of the National Flood Insurance Program has been, generally, to support the purchase of flood insurance coverage by condominium owners' associations, without regard to the inability of unit owners to purchase flood insurance coverage in most cases (43 FR 7142, 7144 February 17, 1978).

Furthermore, while the Standard Flood Insurance Policy permits a unit owner purchasing contents coverage to apply up to 10% of the contents coverage to the restoration of certain structural elements within the unit following a flood loss, the amendment recognizes that such application of the contents coverage may be insufficient in many cases to restore the unit owner's part of the improved property and, at the same time, places a limitation on the amount of recovery under the policy which may be made to compensate the insured for personal property loss by reducing the available limits of recovery available for a contents loss by 10%.

This amendment and extension of building coverage provided under the Standard Flood Insurance Policy shall apply, under the policy's Liberalization Clause, to every policy presently issued to a condominium association to cover building loss and to every such policy issued hereafter without the necessity for a written endorsement being appended to each contract, pursuant to § 1911.13(b) of this Part.

Inasmuch as the hurricane season is about to commence, good cause exists for publication of this amendment without delay since it will be of inestimable benefit to the many members of condominium associations presently insured under the National Flood Insurance Program in States likely to feel the impact of dangerous summer storms in the months ahead. Without publication of the amendatory endorsement in Appendix A, the benefits of this amendment could not be extended to the unit owners who may be victims of flooding conditions attendant such hurricanes under the policy as presently constituted. The rule, therefore, relieves a restriction (5 USC § 553).

For the foregoing reasons and other good cause, and because of the obvious importance to the consumer of the benefits being provided through this amendment, FEMA has determined that notice and public procedure are contrary to the public interest (5 USC § 553). A period of notice and comment not being necessary in this case, this amendment adding an amendatory endorsement to the Standard Flood Insurance Policy is being made effective on June 1, 1979.

FEMA has determined that an environmental impact statement is not required for this rule. A copy of the finding of inapplicability is available for inspection at the above address.

Accordingly, Part 1911 is amended by the addition of the following amendatory endorsement at the end of Appendix A (2)—General Property Form:

[Editorial Note.— Appendix A (2) to Part 1911 of Title 24 was inadvertently omitted from the 1978 and 1979 editions of the Code of Federal Regulations. It was published in the Federal Register of January 17, 1978 (43 FR 2578).]

Condominium Association Endorsemnt

If the named Insured on this policy is a condominum association, then at the time of loss by flood the following terms, subject to all other provisions of the policy, will apply:

1. The building coverage of this policy, subject to the stated limits will cover damage to all building items covered under the policy and owned in common by the condominum association members.

2. The building coverage of this policy, subject to the stated limits, is extended to cover damage to all structural items within the Individual Condominum Units, including walls, floors, ceilings, and their related coverings, such as paint, paper, panelling, carpeting, and tile. Also covered are installed appliances for heating, cooling, plumbing and electrical purposes. The structural items may be original installations or replacement or additional items.

3. The building coverage outlined in paragraph 2 above has application only to the extent that the policy's stated limits have not been exhausted under paragraph 1.

4. The policy deductible relating to the building coverage shall be applied against the total damage to all of the building's structural elements and not against the covered loss, and shall not be applied separately in the case of each unit sustaining damage.

5. The contents coverage of this policy covers damage, subject to the stated limits, to all contents items owned in common by the association members and contained in the insured building or removed therefrom in accordance with the policy's terms.

6. The policy deductible relating to contents coverage shall be applied against the total damage to all contents owned in common by the condominum association members and contained in the insured building or removed therefrom in accordance with the policy's terms and not against the covered loss.

7. Loss under this endorsement shall be adjusted with the condominum association and shall be payable to the insurance trustee of record, as designated by the association.

(Authority: National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), as amended (42 U.S.C. 4001–4128); Reorganization Plan No. 3 of 1978 (43 FR 41943) and Executive Order 12127, dated March 31, 1979 (44 FR 19367) and Delegation of Authority to Federal Insurance Administrator (44 FR 20963).)

Issued at Washington, D.C. on May 31, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-17388 Filed 6-1-79; 8:45 am]

BILLING CODE 4210-01-M

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24 CFR Parts 1911 and 1912

Revision of Parts; CFR Correction

At 43 FR 2570, January 17, 1978, Parts 1911 and 1912 were revised, effective January 1, 1978. The Appendices A and B appearing at the end of that document belonged to Part 1911 and were inadvertently omitted from that part in Title 24, Part 500 to End, revised as of April 1, 1978. Appendices A and B entitled:

Appendix A—Standard Flood Insurance Policy; Dwelling and General Property Forms; and

Appendix B—National Flood Insurance Programs; Regular and Emergency

will be published in the 1980 edition of the Code of Federal Regulations. The Appendices were effective January 1, 1978.

BILLING CODE 6820-27-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[Docket No. 21348]

Private Land Mobile Radio Service; Reregulation

AGENCY: Federal Communications Commission.

ACTION: Errata.

SUMMARY: This errata corrects omissions and inaccuracies which occurred when Part 90 regulations were prepared as well as correcting errors made when Part 90 regulations were set in type.

EFFECTIVE DATE: January 2, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Arthur C. King, Rules Division, Private Radio Bureau, (202) 632-6497.

In the matter of amendment of the Commission's rules governing the private land mobile radio service to provide a new Part 90 that re-regulates and consolidates Parts 89, 91, and 93; Errata.

Released: May 29, 1979.

The Report and Order in this proceeding (FCC 78-799, 43 FR 54788), contained a new Part 90 which consolidated the Rules and Regulations formerly contained in Parts 89, 91, and 93. In the process of consolidating, a number of omissions and inaccuracies occurred which are the subject of this errata.

§ 90.17 [Amended]

1. In § 90.17(b) correct the Local Government Radio Service frequency table to read as follows:

* * * * *

154.115	....do	5
154.45625	Fixed or Mobile	19, 20, 21, 22

* * * * *

173.2375	Fixed or Mobile	9, 20, 21, 22
173.2625	....do	9, 20, 21, 22
173.2875	....do	9, 20, 21, 22
173.3125	....do	9, 20, 21, 22
173.3375	....do	9, 20, 21, 22
173.3625	....do	9, 20, 21, 22

* * * * *

2. At § 90.17(c)(9) delete "Reserved" and add:

* * * * *

(c) * * *

(9) The maximum effective radiated power (ERP) may not exceed 20 watts for fixed stations and 2 watts for mobile stations. The height of the antenna system may not exceed 15.24 meters (50 ft.) above ground. All such operation is on a secondary basis to adjacent channel land mobile operations.

* * * * *

§ 90.25 [Amended]

3. At § 90.25(b), correct the Forestry-Conservation Radio Service frequency table to read:

* * * * *

(b) * * *

171.425	....do	4, 9, 10
171.475	....do	4, 10, 12

* * * * *

172.275	....do	4, 11, 12

* * * * *

458.350	....do	14

* * * * *

§ 90.53 [Amended]

4. At § 90.53(a), correct the Special Emergency Radio Service frequency table to read:

(a) * * *

33.02	....do	3, 25
33.04	....do	25
33.06	....do	3, 25
33.08	....do	25
33.10	....do	3, 25
*	* * * *	
37.90	Base and Mobile	3, 25
37.94	....do	3, 25
37.98	....do	3, 25
*	* * * *	
45.92	Base and Mobile	25
45.96	....do	25
46.00	....do	25
46.04	....do	25
47.42	....do	5, 25
47.46	....do	25
47.50	....do	25
47.54	....do	25
47.58	....do	25
47.62	....do	25
47.66	....do	25
*	* * * *	
155.160	Base and Mobile	8, 25
155.175	....do	8, 25
155.205	....do	8, 25
155.220	....do	25
155.235	....do	8, 25
155.265	....do	8, 25
155.280	....do	25
155.295	....do	8, 25
*	* * * *	
157.450	Base	4, 11
163.250	....do	4
*	* * * *	
462.950	....do	16, 18, 25
462.975	....do	17, 18, 25
*	* * * *	
463.075	....do	5, 14, 15
463.100	....do	5, 14, 15
463.125	....do	5, 14, 15
463.150	....do	5, 14, 15
463.175	....do	5, 14, 15
*	* * * *	
467.950	....do	16, 18, 25
467.975	....do	16, 18, 25
468.000	....do	14, 15, 19
*	* * * *	
468.075	....do	5, 14, 15
468.100	....do	5, 14, 15
468.125	....do	5, 14, 15
468.150	....do	5, 14, 15
468.175	....do	5, 14, 15
*	* * * *	

§ 90.55 [Amended]

5. At § 90.55, Paging Operations, correct the first sentence to read: "Effective August 15, 1974, paging operations may be authorized in the Special Emergency Radio Service only on frequencies assigned under the provisions of § 90.53(b)(4) and § 90.53(b)(25)."

§ 90.61 [Amended]

6. At § 90.61, General Eligibility, correct the last sentence to read: "Eligibility is also provided, except in the Business Radio Service, for a non-profit corporation or association that is organized for the purpose of furnishing a radio communication service to persons actually engaged in any of the eligibility activities set forth in the particular service involved subject to the cooperative use provisions of § 90.181."

§ 90.63 [Amended]

7. At § 90.63(c), Power Radio Service frequency table, correct to read:

* * * * *

(c) * * *

173.39625	....do	7, 11, 21, 22
216–220	Base and Mobile	13
*	* * * *	

8. At § 90.63(d)(10), correct to read:

* * * * *

(d) * * *

(10) Frequencies in this band will be assigned only for transmitting hydrological or meteorological data in accordance with the provisions of § 90.265.

* * * * *

9. At § 90.63(d)(20), correct to read:

* * * * *

(d) * * *

(20) Use of frequencies in this band is limited to developmental operation and is subject to the provisions of Subpart Q.

* * * * *

§ 90.65 [Amended]

10. At § 90.65(a) correct to read as follows:

(a) * * *

However, persons engaged solely in the containment or cleanup of oil spills will only be assigned those frequencies designated by limitations (6) and (9) in this section.

* * * * *

11. At § 90.65(b), correct the Petroleum Radio Service frequency table as follows:

* * * * *

(b) * * *

2292	....do	1, 2, 4, 5
*	* * * *	
25.10	....do	3, 4
*	* * * *	
25.14	....do	3, 4
*	* * * *	
153.050	....do	4, 5, 13
153.065	....do	13
153.080	....do	4, 5, 13
153.095	....do	13
*	* * * *	
153.125	....do	13
*	* * * *	
153.155	....do	13
*	* * * *	
153.185	....do	13
*	* * * *	
153.215	....do	13
*	* * * *	
153.245	....do	13
153. * * *		
153.275	....do	13
*	* * * *	
153.305	....do	13
*	* * * *	
153.335	....do	13
*	* * * *	
158.145	Base or Mobile	20
*	* * * *	
158.310	....do	4, 5, 13
*	* * * *	
173.20375	Fixed or Mobile	16, 18, 24, 35
*	* * * *	

12. At § 90.65(c) delete subparagraph (17) in its entirety. In its place insert:

* * * * *

(c) * * *

(17) [Reserved]

* * * * *

13. At § 90.65(c) correct subparagraphs (24) and (33) to read as follows:

* * * * *

(c) * * *

(24) This frequency band is shared with Power, Forest Products, Special Industrial, Petroleum, Manufacturers, Business, and Local Government Radio Services for remote control and telemetry operations.

(33) Use of this frequency band is limited to developmental operation and is subject to the provisions of Subpart Q.

* * * * *

§ 90.67 [Amended]

14. At § 90.67(b), the Forest Products Radio Service frequency table, correct to read as follows:

* * * * *

(b) * * *

152.465	Base or Mobile	29
*	* * * *	
154.46375	Fixed or Mobile	13, 14, 24, 25, 26
*	* * * *	
452.100	Base or Mobile	28
452.200	....do	28
452.225	....do	28
452.250	....do	28
452.275	....do	28
452.350	....do	28
452.400	....do	28
452.450	....do	28
*	* * * *	
457.100	Mobile	28
457.200	....do	28
457.225	....do	28
457.250	....do	28
457.275	....do	28
457.350	....do	28
457.400	....do	28
457.450	....do	28
*	* * * *	

15. At § 90.67(c), correct subparagraph (17) to read as follows:

* * * * *

(c) * * *

(17) The frequencies available for use at fixed stations in this band, and the requirements for assignment are set forth in § 90.261. * * *

* * * * *

16. At § 90.67(c) correct subparagraph (23) and add subparagraphs (28) and (29) as follows:

* * * * *

(c) * * *

(23) Use of this frequency band is limited to developmental operation and is subject to the provisions of Subpart Q.

* * * * *

(28) This frequency is shared with the Taxicab Radio Service. It is available for assignment in this service only in the states of Washington, Oregon, Idaho, and Montana in areas at least 40 miles from the center of urbanized areas of 200,000 or more population (U.S. Census of Population, 1970). The maximum output power is limited to 75 watts.

(29) This frequency is shared with the Taxicab and Special Industrial Radio Services. Use of this frequency is limited to stations located at least 80.5 km (50 miles) from the center of any urbanized area of 600,000 or more population (U.S. Census of Population, 1970). All operations on this frequency are limited to a maximum transmitter output power of 75 watts. Evidence of interservice coordination or a field study showing that minimum separation requirements for co-channel and adjacent channel operations have been satisfied, is required.

* * * * *

§ 90.69 [Amended]

17. At § 90.69(c), correct subparagraph (9) to read as follows:

* * * * *

(c) * * *

(9) Use of this frequency band is limited to developmental operation and is subject to the provisions of Subpart Q.

* * * * *

§ 90.71 [Amended]

18. At § 90.71(c) correct subparagraph (7) to read as follows:

* * * * *

(c) * * *

(7) Use of this frequency band is limited to developmental operation and is subject to the provisions of Subpart Q.

* * * * *

§ 90.73 [Amended]

19. At § 90.73(c), the Special Industrial Radio Service frequency table, correct to read as follows:

(c) * * *

27.29	.....do	
*	* * * *	
72.68	.....do	7
*	* * * *	
151.595	.....do	2
152.465	.....do	28
*	* * * *	
152.990	.....do	2, 10
*	* * * *	
153.020	.....do	2, 10
*	* * * *	
154.45625	Fixed or Mobile	12, 13, 15, 25
*	* * * *	
154.625	.....do	2, 9
157.725	.....do	28
*	* * * *	

20. At § 90.73(d), correct subparagraph (24) and add a new subparagraph (28) to read as follows:

* * * * *

(d) * * *

(24) Use of this frequency band is limited to developmental operation and is subject to the provisions of Subpart Q.

* * * * *

(28) This frequency is shared with Taxicab and Forest Products Radio Services. Use of this frequency is limited to stations located at least 80.5 km (50 miles) from the center of any urbanized area of 600,000 or more population (U.S. Census of Population, 1970). All operations on this frequency are limited to a transmitter output power of 75 watts. Evidence of interservice coordination or a field study, which shows that the minimum separation requirements for co-channel and adjacent channel operations have been satisfied, is required.

* * * * *

21. At § 90.73(g), correct to read as follows:

* * * * *

(g) Base or mobile stations being utilized in itinerant operation will be authorized only on base or mobile frequencies designated for itinerant operation under § 90.73(d)(4) or on other frequencies not designated for permanent use.

§ 90.75 [Amended]

22. At § 90.75(b), correct the Business Radio Service frequency table to begin at 27.43 and to read as follows:

* * * * *

(b) * * *

27.43	Base or Mobile	1, 2
*	* * * *	
154.570	Mobile	4, 13, 22, 38
154.600	.....do	4, 14, 22, 38
*	* * * *	
464.500	.....do	3, 26, 30
*	* * * *	
468.975	.....do	1, 26
*	* * * *	

22a. At § 90.75(d), correct subparagraph (4) to read:

* * * * *

(d) * * *

(4) * * * Mobile stations when used as fixed stations shall be exempt from the limitations of § 90.75(e) and 90.233. * * *

* * * * *

23. At § 90.75(f), correct to read as follows:

* * * * *

(f) *Limitation on itinerant operation.* Base or mobile stations being utilized in itinerant operation will be authorized only on base or mobile frequencies designated for itinerant operation under § 90.75(c)(12), or on other frequencies not designated for permanent use.

§ 90.79 [Amended]

24. At § 90.79(c), correct the Manufacturers Radio Service frequency table to read as follows:

* * * * *

(c) * * *

72.48	.....do	2,4
*	* * * *	
154.45625	Fixed or Mobile	6, 9, 10, 19
154.46375	.....do	6, 7, 9, 10, 20
*	* * * *	
158.280	Base or Mobile	5
*	* * * *	

25. At § 90.79(d), correct subparagraphs (2) and (7) to read as follows:

* * * * *

(d) * * *

(2) * * * All operations on this frequency are subject to the provisions of § 90.257(b).

* * * * *

(7) On this frequency, the maximum power output of the transmitter may not exceed 50 watts for fixed stations and 1 watt for mobile stations. * * *

* * * * *

§ 90.81 [Amended]

26. At § 90.81(d), correct subparagraph (10) to read:

* * * * *

(d) * * *

(10) Use of this frequency band is limited to developmental operation and is subject to the provisions of Subpart Q.

* * * * *

27. At § 90.81(f), correct subparagraph (3) to read:

* * * * *

(f) * * *

(3) Frequencies in the 25–50 MHz, 150–170 MHz, and 470–512 MHz bands, and the frequency bands 903–904 MHz, 904–912 MHz, 918–926 MHz, and 926–927 MHz may be assigned for the operation of automatic vehicle monitoring (AVM) systems in accordance with § 90.239 notwithstanding this limitation.

§ 90.89 [Amended]

28. At § 90.89, correct paragraph (a) to read as follows:

(a) *Eligibility.* Persons primarily engaged in providing a common or contract motor carrier transportation service in any of the following activities are eligible to hold authorizations in the Motor Carrier Radio Service to operate radio stations for transmission of communications essential to such activities of the licensee: Provided, however, That motor vehicles used as taxicabs, livery vehicles, or school buses, and motor vehicles used for sightseeing or special charter purposes, shall not be included within the meaning of this term as used in the Motor Carrier Radio Service. For purposes of this rule, an urban area is defined as being one or more contiguous, incorporated or unincorporated cities, boroughs, towns, or villages, have aggregate population of 2,500 or more persons.

* * * * *

29. At § 90.89(c), correct subparagraph (16) to read:

* * * * *

(c) * * *

(16) Use of this frequency band is limited to developmental operation and is subject to the provisions of Subpart Q.

§ 90.91 [Amended]

30. At § 90.91(c), correct subparagraph (17) to read:

* * * * *

(c) * * *

(17) Use of this frequency band is limited to developmental operation and is subject to the provisions of Subpart Q.

* * * * *

§ 90.93 [Amended]

31. At § 90.93(b), correct the Taxicab Radio Service frequency table to read as follows:

* * * * *

(b) * * *

152.450	....do	
152.465	....do	11
* * * * *		
157.725	....do	11
* * * * *		
452.450	....do	10
* * * * *		
457.050	Mobile	
* * * * *		
457.150	....do	
* * * * *		
457.300	....do	
* * * * *		
457.500	....do	
* * * * *		

32. At § 90.93(c), correct subparagraph (2) and add subparagraph (11) to read:

(c)

* * * * *

(c) * * *

(2) This frequency is also available to Business Radio Service licensees for use at stations outside Standard Metropolitan Areas having 50,000 or more population (1950 Census).

* * * * *

(11) This frequency is shared with the Forest Products and Special Industrial Radio Services. Use of this frequency is limited to stations located at least 80.5 km (50 miles) from the center of any urbanized area of 600,000 or more population (U. S. Census of Population, 1970). Evidence of interservice coordination or a field study showing that the minimum separation requirements for co-channel and adjacent channel operations have been satisfied, is required.

* * * * *

§ 90.103 [Amended]

33. At § 90.103(b), correct the Radiolocation Radio Service frequency table to read as follows:

* * * * *

(b) * * *

90–110	Radiolocation, land	2
* * * * *		
420–450	....do	21
* * * * *		
2450–2500	....do	9, 22, 23
* * * * *		
10500–10550	....do	20, 22, 24
* * * * *		
24050–24250	....do	12, 22, 24
* * * * *		

34. At § 90.103(c), add new subparagraphs (22), (23), and (24) as follows:

* * * * *

(c) * * *

(22) For frequencies 2455, 10,525, and 24,125 MHz unmodulated continuous wave (AO) emission only shall be employed and a frequency stability of at least .2 percent shall be maintained. Such stations shall be exempt from the requirements of Sec. 90.403(c) and (f) and 90.429.

(23) Devices designed to operate as field disturbance sensors on frequencies between 2450 and 2500 MHz with a field strength equal to or less than 50,000 microvolts per meter at 30 meters, on a fundamental frequency, will not be licensed or type accepted for use under this part. Such equipment must comply with the requirements for field disturbance sensors as set forth in Subpart F of Part 15 of this Chapter.

(24) Devices designed to operate as field disturbance sensors on frequencies between 10,500 and 10,550 MHz and between 24,050 and 24,250 MHz, with field strength equal to or less than 250,000 microvolts per meter at 30 meters, on the fundamental frequency, will not be licensed or type accepted for use under this part. Such equipment must comply with the requirements for field disturbance sensors as set forth in Subpart F of Part 15 of this Chapter.

* * * * *

35. At § 90.138 correct the paragraph title and text to read as follows:

§ 90.138 Applications for itinerant frequencies.

An application for authority to conduct an itinerant operation in the Business or Special Industrial Radio Services must be restricted to use of itinerant frequencies or other frequencies not designated for permanent use and need not be accompanied by evidence of frequency coordination. Users should be aware, however, that no protection is provided from interference from other itinerant operations.

§ 90.175 [Amended]

36. At § 90.175(d), correct subparagraphs (4) and (10) to read as follows:

(d) * * *

(4) Applications for a frequency allocated primarily for the operation of industrial, scientific, and medical (ISM) devices, (27 MHz band).

* * * * *

(10) Applications in the Business Radio Service for a frequency below 450 MHz where both frequencies immediately adjacent (±20 or 30 KHz) are available for assignment in that service.

* * * * *

§ 90.181 [Amended]

37. At § 90.181(b), correct to read:

* * * * *

(b) A base station licensee who enters into a cooperative arrangement in accordance with the provisions of paragraph (a)(2) of this section shall obtain prior approval from the Commission for each person who proposes to enter into said arrangement.

* * * * *

§ 90.183 [Amended]

38. At § 90.183, correct paragraph (e) to read:

* * * * *

(e) In order to comply with the requirement of specific advance approval contained in paragraphs (b) and (c) of this section, a licensee proposing to render a private radio

communication service to any other person (other than to render base station service to the licensee of a mobile station) shall make application for authority to render that service with respect to each base station involved, naming each person who is to receive service and including a description of the kind and extent of the transportation activity in which each is engaged. When the radio communication service is to be rendered on a regular basis, the requests for such authority shall be made on FCC Form 400. However, if the service is to be rendered on an irregular or temporary basis, the request may be in the manner provided for in § 90.145. * * *

39. At § 90.203, correct paragraph (a) to read as follows:

§ 90.203 Type acceptance required.

(a) Except as specified in paragraph (b) of this section, each transmitter utilized for operation under this part and each transmitter marketed as set forth in section 2.803 (of part 2) must be of a type which is included in the Commission's current Radio Equipment List as type accepted for use under this part; or, be of a type which has been type accepted by the Commission for use under this part in accordance with the procedures in subparagraph (2) of this paragraph.

(1) The Commission periodically publishes a list of equipment entitled "Radio Equipment List, Equipment Acceptable for Licensing." Copies of this list are available for public reference at the Commission's offices in Washington, D.C., and at each of its field offices. This list includes type accepted equipment and, also, until such time as it may be removed by Commission action, other equipment which appeared in this list on May 16, 1955.

(2) Any manufacturer of radio transmitting equipment (including signal boosters) to be used in these services may request type acceptance of such equipment following the procedures set forth in subpart J of part 2 of this chapter. Type acceptance for an individual transmitter or signal booster also may be requested by an applicant for a station authorization by following the procedure set forth in part 2 of this chapter. Such equipment if type accepted will not normally be included in the Commission's "Radio Equipment List" but will be individually enumerated on the station authorization.

* * * * *

§ 90.203 [Amended]

40. At § 90.203(b), correct subparagraph (5) to read as follows:

* * * * *

(b) * * *

(5) Transmitters used in radiolocation stations in accordance with Subpart F authorized for industrial applications (old Part 92) prior to January 1, 1978.

* * * * *

§ 90.205 [Amended]

41. At § 90.205(b), correct footnote 7 of the maximum power table to read:

* * * * *

(b) * * *

(7) The output power of a transmitter on any authorized frequency in this band shall not exceed 2000W.

* * * * *

§ 90.207 [Amended]

42. At § 90.207(h), correct to read:

* * * * *

(h) For telemetry operations, when specifically authorized under this part, only A1, A2, F1, F2, or F9 emission will be authorized.

* * * * *

§ 90.209 [Amended]

43. At § 90.209, correct paragraph (e) to read as follows:

* * * * *

(e) When radiation in excess of that specified in paragraphs (c) and (d) of this section results in harmful interference, the Commission may require, among other available remedies, appropriate technical changes in equipment to alleviate the interference.

* * * * *

§ 90.213 [Amended]

44. At § 90.213(a) correct the Frequency Tolerance table as follows:

(a) * * *

851-866	.00015	.00015	.00025	.00025

* * * * *

45. At § 90.217, Exemption from technical standards, correct the text to read as follows:

§ 90.217 Exemption from technical standards.

Transmitters used at stations licensed in the Business Radio Service which have an output power not exceeding 120 milliwatts are exempt from the technical requirements set out in this subpart: Provided, however, that the sum of the bandwidth occupied by the emitted signal plus the bandwidth required for frequency tolerance shall be so adjusted that any emission appearing on a frequency 40 kHz or more removed from the assigned frequency is attenuated at least 30 dB below the unmodulated carrier. Only type accepted transmitters may be used.

Such transmitters may operate in the continuous carrier transmit mode.

§ 90.241 [Amended]

46. At § 90.241, delete paragraph (b) in its entirety.

47. At § 90.241(c), correct subparagraph (3) to read:

* * * * *

(c) * * *

(3) The height of a call box antenna may not exceed 6.1 meters (20 feet) above the ground, the natural formation, or the existing man-made structure (other than an antenna supporting structure) on which it is mounted. * * *

* * * * *

§ 90.257 [Amended]

48. At § 90.257(b), correct subparagraph (1) to read:

* * * * *

(b) * * *

(1) Mobile operation on frequencies in the 72–76 MHz band (see 90.257(a)(1)) is subject to the condition that no interference is caused to the reception of television stations operating on channels 4 or 5. * * *

* * * * *

49. At § 90.261 (a), (b), and (c) delete frequencies that are tabulated numerically in horizontal rows and recast in vertical columns as follows:

(a) * * *

Frequencies MHZ

451.025	452.150	456.400	457.625
451.050	452.175	456.425	457.650
451.075	452.200	456.450	457.675
451.100	452.225	456.475	457.700
451.125	452.250	456.500	457.725
451.150	452.275	456.525	457.750
451.175	452.300	456.550	457.775
451.200	452.325	456.575	457.800
451.225	452.350	456.600	457.825
451.250	452.375	456.625	457.850
451.275	452.400	456.650	457.875
451.300	452.425	456.675	457.900
451.325	452.450	456.700	457.975
451.350	452.475	456.725	458.000
451.375	452.500	456.750	462.200
451.400	452.625	456.775	462.225
451.425	452.650	456.825	462.250
451.450	452.675	456.850	462.275
451.475	452.700	456.875	462.300
451.500	452.725	456.900	462.325
451.525	452.750	456.925	462.350
451.550	452.775	456.950	462.375
451.575	452.800	456.975	462.400
451.600	452.825	457.000	462.425
451.625	452.850	457.025	462.450
451.650	452.875	457.050	462.475
451.675	452.900	457.075	462.500
451.700	452.975	457.100	462.525
451.725	453.000	457.125	467.200
451.750	456.025	457.150	467.225
451.775	456.050	457.175	467.250
451.825	456.075	457.200	467.275
451.850	456.100	457.225	467.300
451.875	456.125	457.250	467.325
451.900	456.150	457.275	467.350
451.925	456.175	457.300	467.375
451.950	456.200	457.325	467.400
451.975	456.225	457.350	467.425
452.000	456.250	457.375	467.450
452.025	456.275	457.400	467.475
452.050	456.300	457.425	467.500
452.075	456.325	457.450	467.525
452.100	456.350	457.475	
452.125	456.375	457.500	

(b) * * *

Frequencies MHZ

452.050	453.550	457.800	460.150
452.100	453.575	457.825	460.175
452.150	453.600	457.850	460.200
452.200	453.625	457.875	460.225
452.225	453.650	457.900	460.250
452.250	453.675	458.050	460.275
452.275	453.700	458.100	460.300
452.300	453.725	458.150	460.325
452.325	453.750	458.200	460.350
452.350	453.775	458.225	460.375
452.375	453.800	458.250	460.400
452.400	453.825	458.275	460.425
452.425	453.850	458.300	460.450
452.450	453.875	458.325	460.475
452.475	453.900	458.350	460.500
452.500	453.925	458.375	460.525
452.625	453.950	458.400	460.550
452.650	453.975	458.425	460.575
452.675	457.050	458.450	460.600
452.700	457.100	458.475	460.625
452.725	457.150	458.500	465.025
452.750	457.200	458.525	465.050
452.775	457.225	458.550	465.075
452.800	457.250	458.575	465.100
452.825	457.275	458.600	465.125
452.850	457.300	458.625	465.150
452.875	457.325	458.650	465.175
452.900	457.350	458.675	465.200
453.050	457.375	458.700	465.225
453.100	457.400	458.725	465.250
453.150	457.425	458.750	465.275
453.200	457.450	458.775	465.300
453.225	457.475	458.800	465.325
453.250	457.500	458.825	465.350
453.275	457.525	458.850	465.375
453.300	457.550	458.875	465.400
453.325	457.575	458.900	465.425
453.350	457.600	458.925	465.450
453.375	457.625	458.950	465.475
453.400	457.650	458.975	465.500
453.425	457.675	460.025	465.525
453.450	457.700	460.050	465.550
453.475	457.725	460.075	465.575
453.500	457.750	460.100	465.600
453.525	457.775	460.125	465.625

(c) * * *

Frequencies MHZ

451.025	453.050	456.275	458.375
451.050	453.100	456.300	458.400
451.075	453.150	456.325	458.425
451.100	453.200	456.350	458.450
451.125	453.225	456.375	458.475
451.150	453.250	456.400	458.500
451.175	453.275	456.425	458.525
451.200	453.300	456.450	458.550
451.225	453.325	456.475	458.575
451.275	453.350	456.500	458.600
451.300	453.375	456.525	458.625
451.325	453.400	456.550	458.650
451.350	453.425	456.575	458.675
451.375	453.450	456.600	458.700
451.400	453.475	456.625	458.725
451.425	453.500	456.650	458.750
451.450	453.525	456.675	458.775
451.475	453.550	456.700	458.800
451.500	453.575	456.725	458.825
451.525	453.600	456.750	458.850
451.550	453.625	456.775	458.875
451.575	453.650	456.825	458.900
451.600	453.675	456.850	458.925
451.625	453.700	456.875	458.950
451.650	453.750	456.900	460.025
451.675	453.775	456.925	460.050
451.700	453.800	456.950	460.075
451.725	453.825	456.975	460.100
451.750	453.850	457.000	460.125
451.775	453.875	457.025	460.150
451.825	453.900	457.075	460.175
451.850	453.925	457.125	460.200
451.875	453.950	457.175	460.225
451.900	453.975	457.975	460.525
451.925	456.025	458.000	460.250
451.950	456.050	458.050	460.275
451.975	456.075	458.100	460.300
452.000	456.100	458.200	460.325
452.025	456.125	458.225	460.350
452.075	456.150	458.250	460.375
452.125	456.175	458.275	460.400
452.175	456.200	458.300	460.425
452.975	456.225	458.325	460.450
453.000	456.250	458.350	460.475

Frequencies MHZ—Continued

460.500	465.150	467.300
460.550	465.175	467.325
460.575	465.200	467.350
460.600	465.225	467.375
460.625	465.250	467.400
462.200	465.275	467.425
462.225	465.300	467.450
462.250	465.325	467.475
462.275	465.350	467.500
462.300	465.375	467.525
462.325	465.400	
462.350	465.425	
462.375	465.450	
462.400	465.475	
462.425	465.500	
462.450	465.525	
462.475	465.550	
462.500	465.575	
462.525	465.600	
465.025	465.625	
465.050	467.200	
465.075	467.225	
465.100	467.250	
465.125	467.275	

* * * * *

§ 90.303 [Amended]

50. At § 90.303(a), correct the table "Frequency Availability for Land Mobile Use" to read as follows:

(a) * * *

New York/N.E. N. J..	40°45'16"	73°59'39"	14	470–476
			15	476–482
* * * * *				
San Francisco/ Oakland.....	37°46'39"	122°24'40"	16	482–488
			17	488–494
* * * * *				
Wash. D.C./ Md./Va. 38°53'51" 77°00'33"....			17	488–494
			18	494–500

* * * * *

§ 90.369 [Amended]

51. At § 90.369(f) delete portion of paragraph (f) beginning "There shall be no limit * * *" which duplicates paragraph (e).

§ 90.371 [Amended]

52. At § 90.371, correct paragraph (a) to read:

(a) The maximum number of frequency pairs that may be assigned for the operation of a trunked radio system shall be twenty. The minimum number of frequency pairs that may be assigned for the operation of such a system shall be five.

* * * * *

§ 90.403 [Amended]

53. At § 90.403, correct paragraph (b) to read:

(a) * * *

(b) In carrying out their responsibilities under § 90.403(a), licensees shall be bound by the provisions of the Communications Act of 1934, as amended, and by the rules and regulations of the Commission governing the radio service in which their facilities are licensed: and licensees may not through written or oral agreements or otherwise, relieve themselves of any duty or obligation imposed upon them, by law, as licensees.

* * * * *

54. At § 90.403, correct paragraph (f) to read:

* * * * *

(f) Stations licensed in this part shall not continuously radiate an unmodulated carrier except where required for tests as permitted in Section 90.405, except where specifically permitted by this part, where specifically authorized in the station authorization, or on an as needed basis in the Radiolocation Radio Service.

* * * * *

§ 90.425 [Amended]

55. At § 90.425(a), correct subparagraph (3) to read:

* * * * *

(a) * * *

(3) * * * Further, a single mobile unit in the licensee's authorized geographic area of operation may transmit station identification on behalf of any other operating mobile units in the fleet.

* * * * *

56. At § 90.425(d), correct subparagraph (1) to read:

* * * * *

(d) * * *

(1) It is a mobile station operating on the transmitting frequency of the associated base station.

* * * * *

§ 90.463 [Amended]

57. At § 90.463(e), correct subparagraph (2) to read:

* * * * *

(e) * * *

(2) To terminate any transmissions or communication(s) between points in the public communication system and points in the private system of communication.

* * * * *

§ 90.471 [Amended]

58. At § 90.471, correct to read:

* * * See §§ 90.485 through 90.487.

§ 90.555 [Amended]

59. At § 90.555(b), correct the Combined Frequency List as follows:

* * * * *

(b) * * *

1605–1715	IR.....	Radiolocation.
* * * * *		
2505–3500	PL, PS.....	State Guard.
2726	PL, PS.....	Do.

* * * * *

30.565	IB, IF, IM, IP, IS, IT, IW, IX, IY.	Developmental.
*	*	*
33.00–33.01	PF, PH, PL, PO, PP, PS, LA, LM, LR, LX.	Developmental.
*	*	*
33.99–34.00	PF, PH, PL, PO, PP, PS.	Developmental.
35.00–35.01	IB, IF, IM, IP, IS, IT, IW, IX, IY.	Do.
*	*	*
35.99–36.00	IB, IF, IM, IP, IS, IW, IT, IX, IY.	Developmental.
37.00–37.01	IB, IF, IM, IP, IS, IW, IT, IX, IY.	Do.
*	*	*
45.06	PP	Do.
*	*	*
45.72	PH	
*	*	*
46.58	PL	
*	*	*
150.775	PS	Mobile.
150.790	PS	Do.
*	*	*
150.995	PH, IB	IB use limited to P.R. and V.I.
*	*	*
151.490	PO, IS	IS use not permitted in P.R. and V.I.
*	*	*
161.295	LR	
*	*	*
173.20375	IB, IF, IX, IP, IS, IW, PL	R/C and Telemetry.
173.2100	IB, IF, IX, IP, IS, IW, PL	Do.
173.225	IY, IM	
173.2375	IB, IF, IX, IP, IS, IW, PL	Do.
173.250	IF, IP, IW	See limitations.
173.2625	IB, IF, IX, IP, IS, IW, PL	R/C and Telemetry.
173.275	IY, IM	
173.2875	IB, IF, IX, IP, IS, IW, PL	Do.
173.300	IF, IP, IW	See limitations.
173.3125	IB, IF, IX, IP, IS, IW, PL	R/C and Telemetry.
173.325	IY, IM	
173.3375	IB, IF, IX, IP, IS, IW, PL	Do.
173.350	IF, IP, IW	See limitations.
173.3625	IB, IF, IX, IP, IS, IW, PL	R/C and Telemetry.
173.375	IY, IM	
173.3900	IB, IF, IX, IP, IS, IW, PL Do.	
173.39625	IB, IF, IX, IP, IS, IW, PL	Do.
216–220	IW, IP, IF, IS, IB, IX, IT	Telemetry.
420–450	IR	See limitations.
*	*	*
451.175	IW, IP, IF, IT, IX	
451.200	IW	
451.225	IW, IP, IF, IT, IX	
451.250	IW	
451.275	IW, IP, IF, IT, IX	
451.300	IT	
451.325	IT	
451.350	IT	
451.375	IF, IP, IT, IW, IX	
451.400	IT	
451.425	IF, IP, IT, IW, IX	
451.450	IT	
451.475	IF, IP, IT, IW, IX	
451.500	IT	
451.525	IF, IP, IT, IW, IX	
451.550	IP, IF	
451.575	IF, IP, IT, IW, IX	
451.600	IP, IF	
451.625	IF, IP, IT, IW, IX	
451.650	IP, IF	
451.675	IF, IP, IT, IW, IX	
*	*	*
452.325	LM, LR	
452.350	LX	
452.375	LM, LR	
452.400	LX	
452.425	LM, LR	
452.450	LX	
452.475	LM, LR	
452.625	LM	
452.650	LM	
452.675	LM	
452.700	LM	
452.725	LM	
452.750	LM	
452.775	LM, LR	
452.800	LM	
452.825	LM, LR	
452.850	LM	
452.875	LM, LR	
*	*	*
456.175	IF, IP, IT, IW, IX	Do.
456.200	IW	Do.
456.225	IF, IP, IT, IW, IX	Do.
456.250	IW	Do.
456.275	IF, IP, IT, IW, IX	Do.
*	*	*
456.375	IF, IP, IT, IW, IX	Do.
456.400	IT	Do.
456.425	IF, IP, IT, IW, IX	Do.
456.450	IT	Do.
456.475	IF, IP, IT, IW, IX	Do.
456.500	IT	Do.
456.525	IF, IP, IT, IW, IX	Do.
456.550	IP, IF	Do.
456.575	IF, IP, IT, IW, IX	Do.
456.600	IP, IF	Do.
456.625	IF, IP, IT, IW, IX	Do.
456.650	IP, IF	Do.
456.675	IF, IP, IT, IW, IX	Do.
*	*	*
457.325	LM, LR	Do.
457.350	LX	Do.
457.375	LM, LR	Do.
457.400	LX	Do.
457.425	LM, LR	Do.
457.450	LX	Do.
457.475	LM, LR	Do.
*	*	*
457.625	LM	Do.
457.650	LM	Do.
457.675	LM	Do.
457.700	LM	Do.
457.725	LM	Do.
457.750	LM	Do.
457.775	LM	Do.
457.800	LM	
457.825	LM, LR	
457.850	LM	
457.875	LM, LR	
*	*	*
458.025	PL, PS	Hwy. call box and medical telemetry.
*	*	*
458.075	PL, PS	Do.
*	*	*
458.125	PL, PS	Do.
*	*	*
458.175	PL, PS	Do.
*	*	*
458.225	PL	
*	*	*
458.275	PL	
*	*	*
458.325	PL	
*	*	*
458.375	PL	
*	*	*
458.425	PL	
*	*	*
458.475	PL	
*	*	*
460.525	PP, PS	Medical care dispatch.
460.550	PP, PS	Do.
*	*	*
462.200	IX	
462.225	IX	
462.250	IX	
462.275	IX	
462.300	IX	
462.375	IX	
462.400	IX	
462.425	IX	
462.450	IX	
462.475	IF, IP, IT, IW, IX	
462.500	IX	
462.525	IF, IP, IT, IW, IX	
462.550	(4)	
462.575	(4)	
462.600	(4)	
462.625	(4)	
462.650	(4)	
462.675	(4)	
462.700	(4)	
462.725	(4)	
*	*	*
465.525	PF, PP, PS	Non-voice.
465.550	PF, PP, PS	Do.
*	*	*
467.200	IX	Mobile only.
467.225	IX	Do.
467.250	IX	Do.
467.275	IX	Do.
467.300	IX	Do.
467.325	IX	Do.
467.350	IX	Do.
467.375	IX	Do.
467.400	IX	Do.
467.425	IX	Do.
467.450	IX	Do.
467.475	IF, IP, IT, IW, IX	Do.
467.500	IX	Do.
467.525	IF, IP, IT, IW, IX	Do.
467.550	(4)	Do.
467.575	(4)	Do.
467.600	(4)	Do.
467.625	(4)	Do.
467.650	(4)	Do.
467.675	(4)	Do.
467.700	(4)	Do.
467.725	(4)	Do.
*	*	*
806–821	All Svcs	Mobile.
851–866	All Svcs	Base or mobile.
1427–1435	All Svcs. Exc. IR	Fixed, base, or mobile.
2450–2500	All Svcs	Base of mobile
2900–3700	IR	See limitations.
5250–5650	IR	Do.
8400–8500	All Svcs. Exc. IB, IR	Developmental.
8500–10550	IR	See limitations.
10550–10680	All Svcs. Exc. IR	
13400–14000	IR	See limitations.
15700–17700	IR	Do.
23000–24250	IR	Do.
33400–36000	IR	Do.
*	*	*

§ 90.560 [Amended]

60. At § 90.560, Cross Reference Table, add items as follows:

*	*	*
89.900–90.403(a)	General Operating Requirements.	Do.
*	*	*
91.301–90.65(a)	Petroleum Radio Service.	Minor rewording. Combined with other sections.
*	*	*

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 79–17018 Filed 6–4–79; 8:45 am]

BILLING CODE 6712–01–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Amdt. No. 1 to Second Rev. S.O. No. 1305]

Car Service; Distribution of Freight Cars

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order.

SUMMARY: Amendment No. 1 to Second Revised Service Order No. 1305 authorizes the ATSF and the UP to substitute two refrigerator cars for each boxcar ordered. The minimum weight to be applied to each set of two such cars is the minimum weight applicable to the boxcar ordered. The consent of the shippers is required.

DATES: Effective 11:59 p.m., May 31, 1979, and continuing until further order of this Commission.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter, (202) 275–7840

Decided May 30, 1979.

Upon further consideration of Service Order No. 1305 (43 FR 60276), and good cause appearing therefor:

It is ordered: § 1033.1305 Service Order No. 1305 (Distribution of Freight Cars) is amended by substituting the following paragraph (j) for paragraph (j) thereof:

(j) *Expiration date.* The provisions of this order shall remain in effect until modified or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., May 31, 1979.

(49 U.S.C. (10304–10305 and 11121–11126))

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

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

H. G. Homme, Jr.,

Secretary.

[FR Doc. 79-17407 Filed 6-4-79; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 44, No. 109
Tuesday, June 5, 1979

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.

OFFICE OF PERSONNEL MANAGEMENT

[5 CFR Part 890]

Federal Employees Health Benefits Program; Benefits for Members of Medically Underserved Populations

AGENCY: Office of Personnel Mangement.

ACTION: Proposed Rulemaking.

SUMMARY: The Office of Personnel Management is amending its Federal Employees Health Benefits (FEHB) regulations to add a new Subpart G regarding FEHB benefits for insured individuals who are members of a medically underserved population as defined by section 1302(7) of the Public Health Service Act (42 U.S.C. 300e–1(7)). This action is necessary to facilitate administration of section 8902(m)(2) of Title 5, United States Code, as added to the FEHB Law by Pub. L. 95–368, approved September 17, 1978.

DATE: Written comments will be considered if received no later than August 6, 1979.

ADDRESS: Send written comments to Craig B. Pettibone, Chief, Office of Policy Development and Technical Services, Retirement and Insurance Division, Office of Personnel Management, 1900 E Street N.W. (Rm. 4351), Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT: Bonnie Rose, Office of Policy Development and Technical Services, Retirement and Insurance Division (202–632–4634).

SUPPLEMENTARY INFORMATION: Section 1 of Pub. L. 95–368 amended chapter 89 of Title 5, United States Code to add a new subsection 8902(m)(2). It states that if a contract under the FEHB Program provides for payment or reimbursement of the costs of health services related to the care and treatment of a particular health condition, the carrier (except comprehensive prepayment medical plans) must pay benefits up to the limits of its contract for care or treatment properly rendered by any person licensed under state law to provide such service when the service is provided to an individual who is a member of a "medically underserved population". For FEHB purposes, "medically underserved population" has the same meaning as under section 1302(7) of the Public Health Service Act (42 U.S.C. 300e–1(7)):

> [The] population of an urban or rural area designated by the Secretary [of the Department of Health, Education, and Welfare] as an area with a shortage of personal health services or a population group designated by the Secretary as having a shortage of such services.

The practical effect of this amendment is to require that is an FEHB contract provides payment or reimbursement for certain health services only if rendered by a specific category of medical practitioner (e.g. doctor, orthopedic surgeon), the carrier will also be required to pay or reimburse for the same services from any other category of health practitioner who is properly licensed by state law to render such service when the service is provided to an enrollee of the plan residing in an area designated by DHEW as having a medically underserved population.

Section 3 of Pub. L. 95–368 further provides that section 8902(m)(2) shall apply to services covered under FEHB contracts entered into or renewed after December 31, 1979, except that such provision shall not apply to services provided after December 31, 1984.

Accordingly, it is proposed that a new Subpart G be added to Part 890, Title 5, Code of Federal Regulations, as set out below:

Subpart G—Benefits for Members of Medically Underserved Populations

Sec.
890.701 Definitions.
890.702 Payment to any licensed practitioner.
890.703 Identifying claims from MUA's.
890.704 Verifying state licensure of practitioner.

Authority: 5 U.S.C. 8913

§ 890.701 Definitions.

For purposes of this subpart—

(a) *"Health Benefits Plan"* means the government-wide service benefit plan, the government-wide indemnity benefit plan, or an employee organization plan as described under 5 U.S.C.8903 (1) (2), and (3), respectively.

(b) *"Medically Underserved Area (MUA)"* means a geographic area designated by the Secretary of Health, Education, and Welfare as possessing a medically underserved population within the meaning of section 1302(7) of the Public Health Service Act [42 U.S.C. 300e–1(7)]. DHEW responsibility for determining shortage areas under section 1302(7) has been delegated to the Bureau of Community Health Services, Health Services Administration, DHEW. A list of MUA's was published as Part IV of the **Federal Register** for Friday, October 15, 1976 [41 FR 45718–45777]; this will be revised and published periodically. MUA designations correspond to U.S. Census of Population boundaries. The list is structured with the states in alphabetical order; MUA designations within each state are arranged alphabetically by county under headings which identify total counties, minor civil divisions/census county divisions within counties, census tracts within counties, and groups of census tracts.

(1) *"Census Tract"* is a small, relatively permanent, numerically identified area into which a large city and adjacent areas are divided for the purpose of compiling census data. (The average census tract contains about 4,000 residents and is usually homogeneous in population characteristics, economic status, and living conditions.)

(2) *"Minor Civil Division (MCD)"* is a primary political or administrative subdivision of a county, such as a township or precinct, used for compiling census data in non-metropolitan areas. (In 21 states, MCD's are unsatisfactory for census purposes, primarily because their boundaries frequently change, consist of imaginary lines, or are not well known by local residents. In these states, census county divisions (CCD) have been established by the U.S. Census Bureau in cooperation with state and local officials.)

§ 890.702 Payment to any licensed practitioner.

(a) Except as provided in paragraph (b) of this section, if a health benefits plan's contract provides for payment or reimbursement of the costs of a particular health service only if rendered by a specific category of

medical practitioner, the plan must also provide benefits up to the limits of its contract, for the same service when rendered by any other category of health practitioner who is licensed under applicable state law to provide such service, if the service is provided in a medically underserved area to a plan enrollee who is a resident of such area.

(b) Paragraph (a) of this section only applies to health services provided before January 1, 1985, under contracts which become effective after December 31, 1979.

§ 890.703 Identifying claims from MUA's.

(a) Before denying any claim for benefits for health services provided after December 31, 1979 and before January 1, 1985, solely because the service was not performed by a certain class of practitioner, a health benefits plan claims office shall (1) determine whether the practitioner is licensed under the laws of the state where the service is rendered to provide such service and (2) note the practitioner's professional address and the residence of the enrollee to whom service is provided and consult the latest Designation of Medically Underserved Areas published in the Federal Register as of January 1, 1980, and any supplements thereto which the plan may receive from the Bureau of Community Health Services, Health Services Administration, Department of Health, Education, and Welfare, pursuant to an agreement between DHEW and the Office of Personnel Management, to determine whether the county, or portion of the county, in which the practitioner and enrollee are located has been designated as an MUA. For purposes of this subpart, if an area is designated as an MUA on or after January 1, 1980, a subsequent change in status prior to January 1, 1985, shall have no affect on payment of benefits under this subpart.

(b) If the health benefits plan claims office is unable to determine the geographic boundaries of an MUA listing, the claims office should request assistance from the Department of Health, Education, and Welfare. Carrier requests for MUA information should be addressed to:

Mr. Edwin G. O'Neill, Chief, Positive Programming Branch, Bureau of Community Health Services, Health Services Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Maryland 20852, Telephone: (301) 443-1022.

(c) Employees and annuitants enrolled in health plans subject to this subpart should request assistance from their plan's claims office in verifying whether the area in which they live has been designated as medically underserved for purposes of this subpart.

(d) Whenever a claim is denied because the practitioner's professional address is not located in an MUA, the claim shall be reconsidered with evidence that the health service was actually provided in, and to a resident of, an MUA.

§ 890.704 Verifying State licensure of practitioner.

To assist claims offices in making practitioner licensure determinations, the Office of Personnel Management will furnish the following materials:

(a) *State Regulation of Health Manpower* (DHEW Publication No. (HRA) 77-49). This publication lists health occupations licensed in the 50 states and the District of Columbia and the name of the licensing agency should information on the scope of the license be required.

(b) *Licensure Information System* (DHEW Publication No. (HRA) 76-34). This pamphlet explains the use of a computerized system maintained by the Health Resources Administration, Department of Health, Education, and Welfare on state laws affecting the licensure of health occupations.

Office of Personnel Management.

Beverly M. Jones,

Issuance Systems Manager.

[FR Doc. 79-17315 Filed 6-4-79; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[7 CFR Part 301]

Proposal To Amend Japanese Beetle Program Manual

Correction

In FR Doc. 79-15306, published at page 28382, on Tuesday, May 15, 1979, the following corrections are made:

1. On page 28382, in the middle column, in the fourteenth line, "(76 CFR 1.27(c))" should be corrected to read "(7 CFR 1.27(c))";

2. On page 28383, in the first column, the second paragraph "(d)" should be corrected to read "d";

3. On page 28383, in the middle column, the filed date and time, "Filed 5-15-79; 8:45 am", should be corrected to read "Filed 5-14-79; 9:36 am".

BILLING CODE 1505-01-M

Agricultural Marketing Service

[17 CFR Part 916]

Nectarines Grown in California; Proposed Extension of Grade and Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice proposes to extend through May 31, 1980, the current minimum grade requairement—U.S. No. 1, with a slightly smaller allowance for scarring and an increased tolerance for fruit not well formed but not badly misshapen—for California nectarines. In addition, the proposal would continue the current minimum size requirements for 50 named varieties of nectarines. These requirements are designed to provide for orderly marketing in the interest of producers and consumers.

DATES: Written comments must be received on or before July 9, 1979. Proposed effective date: July 26, 1979.

ADDRESS: Send comments to the hearing Clerk, United States Department of Agriculture, Room 1077 South Building, Washington, D.C. 20250, where they will be made available for public inspection during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, (202) 447-5975.

SUPPLEMENTARY INFORMATION: Nectarine Regulation 11 (§ 916.353; 44 FR 29641) sets forth the current grade and size requirements for the handling of nectarines grown in California through July 25, 1979. This proposed amendment would continue these requirements through May 31, 1980. The proposal was recommended by the Nectarine Administrative Committee established under the marketing agreement, as amended, and Order No. 916, as amended (7 CFR Part 916). The marketing agreement and order regulate the handling of nectarines grown in California, and are effective under the Agricultural marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

This proposal has not been determined significant under the USDA criteria for implementing Executive Order 12044.

The committee estimates shipments of California nectarines at 14.8 million packages, compared with actual shipments of 12.0 million packages last season. Shipments of nectarines from the production area are currently underway.

The grade and size requirements are designed to permit shipment of ample

supplies of nectarines of acceptable grades and sizes in the interest of both producers and consumers pursuant to the declared policy of the act.

Under the proposal, the provisions of Nectarine Regulation 11 (§ 916.353; 44 FR 29641) would be amended to read as follows:

§ 916.353 Nectarine Regulation 11

(a) During the period July 26, 1979, through May 31, 1980, no handler shall handle:

(1) Any package or container of any variety of nectarines unless such nectarines meet the requirements of U.S. No. 1 grade: *Provided,* That nectarines 2 inches in diameter or smaller, shall not have fairly light colored, fairly smooth scars which exceed the aggregate area of a circle ⅜ inch in diameter, and nectarines larger than 2 inches in diameter shall not have fairly light colored, fairly smooth scars which exceed an aggregate area of a circle ½ inch in diameter: *Provided further,* That an additional tolerance of 25 percent shall be permitted for fruit that is not well formed but not badly misshapen.

(2) Any package or container of Mayred variety nectarines unless:

(i) Such nectarines, when packed in molded forms (tray pack) in a No. 22D standard lug box, are of a size that will pack, in accordance with the requirements of a standard pack, not more than 112 nectarines in the lug box; or

(ii) Such nectarines in any container when packed other than as specified in subdivision (i) of this subparagraph (2) are of a size that a 16-pound sample, representative of the nectarines in the package or container, contains not more than 105 nectarines.

(3) Any package or container of Mayfair variety nectarines unless:

(i) Such nectarines, when packed in molded forms (tray pack) in a No. 22D standard lug box, are of a size that will pack, in accordance with the requirements of a standard pack, not more than 108 nectarines in the lug box; or

(ii) Such nectarines in any container when packed other than as specified in subdivision (i) of this subparagraph (3) of a size that a 16-pound sample, representative of the nectarines in the package or container, contains not more than 102 nectarines.

(4) Any package or container of Apache, Armking, Crimson Gold, Early Red, Early Star, Early Sungrand, Firebrite, Independence, June Belle, June Grand, Kent Grand, May Grand, Moon Grand, Red Diamond, Red June, Spring Grand, Spring Red, Star Grand I, Star Grand II, Summer Grand, Sun Grand, or Zee Gold variety nectarines unless:

(i) Such nectarines, when packed in molded forms (tray pack) in a No. 22D standard lug box, are of a size that will pack, in accordance with the requirements of a standard pack, not more than 96 nectarines in the lug box; or

(ii) Such nectarines in any container when packed other than as specified in subdivision (i) of this subparagraph (4) are of a size that a 16-pound sample, representative of the nectarines in the package of container, contains not more than 90 nectarines.

(5) Any package or container of Autumn Grand, Bob Grand, Clinton-Strawberry, Ed's Red, Fairlane, Fantasia, Flamekist, Flavortop, Gold King, Granderli, Grand Prize, Hi-Red, Late Le Grand, Le Grand, Niagara Grand, Red Free, Red Grand, Regal Grand, Richards Grand, Royal Giant, Royal Grand, Ruby Grand, September Grand, Tasty Free, Tom Grand, or 61–61 variety nectarines unless:

(i) Such nectarines, when packed in molded forms (tray pack) in a No. 22D standard lug box, are of a size that will pack, in accordance with the requirements of a standard pack, not more than 88 nectarines in the lug box; or

(ii) Such nectarines in any container when packed other than as specified in subdivision (i) of this subparagraph (5) are of a size that a 16-pound sample, representative of the nectarines in the package or container, contains not more than 78 nectarines.

(b) As used herein, "U.S. No. 1" and "standard pack" mean the same as defined in the United States Standards for Grades of Nectarines (7 CFR 2851.3145–3160); "No. 22D standard lug box" means the same as defined in Section 1387.11 of the "Regulations of the California Department of Food and Agriculture." All other terms mean the same as defined in this marketing order.

Dated: May 30, 1979.

D. S. Kuryloski,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-17330 Filed 6-4-79; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[10 CFR Part 211]

[Docket No. ERA-R-79-*28*]

Proposed Amendments to Include Additional Petroleum Substitutes in the Entitlements Program

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Proposed Rulemaking and Public Hearing.

SUMMARY: The Economic Regulatory Administrative (ERA) of the Department of Energy (DOE) is proposing amendments to the Mandatory Petroleum Allocation Regulations (10 CFR Part 211) which would provide for the automatic inclusion in the crude oil entitlements program of solid municipal waste and solid derivatives thereof used as fuel, the coal component of a slurry of coal and petroleum products, alcohol derived from biomass when mixed with gasoline to produce gasohol, shale oil used for non-refining purposes, the wood component of mixtures of processed wood and petroleum product, and methane derived from municipal sewage or landfills. The proposed amendments would also permit gaseous fuels derived from solid-waste materials, as well as solid fuels derived from non-municipal solid-waste sources, to receive the same treatment as liquid solid-waste derivatives, which are currently eligible on a case-by-case basis for inclusion in the entitlements program. The purpose of the proposed amendments would be to offset the regulatory bias in favor of petroleum and against non-petroleum fuel sources which would otherwise continue until the deregulation of crude oil prices.

DATES: Comments by August 1, 1979, 4:30 p.m.; requests to speak by July 10, 1979, 4:30 p.m.; hearing: July 17, 1979, 9:30 a.m.

ADDRESSES: All comments and requests to speak to: Department of Energy, Economic Regulatory Administration, Office of Public Hearing Management, Docket No. ERA–R–79–*28,* Room 2313, 2000 M Street, NW, Washington, D.C. 20461. Hearing location: Room 2105, 2000 M Street, NW, Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Office of Public Hearing Management), Economic Regulatory Administration, Room 2222 A, 2000 M Street, N.W., Washington, D.C. 20461, (202) 254–5201.

William L. Webb (Office of Public Information), Economic Regulatory Administration, Room B 110, 2000 M Street,

N.W., Washington, D.C. 20461, (202) 634–2170.
Norman Breckner (Regulations and Emergency Planning), Economic Regulatory Administration, Room 2310, 2000 M Street, N.W., Washington, D.C. 20461, (202) 254–7477.
David A. Welsh (Entitlements Program), Economic Regulatory Administration, Room 6125, 2000 M Street, N.W., Washington, D.C. 20461, (202) 254–3336.
Jack O. Kendall (Office of General Counsel), Department of Energy, Room 6A–127, 1000 Independence Avenue, S.W., Washington, D.C. 20461, (202) 252–6739.

SUPPLEMENTARY INFORMATION:

I. Background
II. Proposed Amendments
III. Proposed Effective Date
IV. Comment Procedures
V. Other Matters

I. Background

On May 12, 1978, we issued a final rule (43 FR 21429, May 18, 1978) which amended the Mandatory Petroleum Allocation Regulations to provide for the inclusion of shale oil produced from domestic sources and used in a refinery in the crude oil entitlements program. In addition, the final rule provides that other synthetic liquid fuels (as well as shale oil used for non-refining purposes) produced from domestic sources may also earn entitlement benefits, following a brief review procedure whereby we determine the eligibility of an applicant on a case-by-case basis. On January 19, 1979, we adopted guidelines setting forth the procedures and criteria under which we review each application and determine an applicant's eligibility to participate in the entitlements program (44 FR 6895, February 5, 1979).

The purpose of the May 1978 final rule was to permit liquid synthetic fuels to receive the same treatment under the entitlements program as crude oil not subject to price regulation and, thereby, eliminate the disincentive to the production and use of these fuels created by our regulatory scheme for petroleum. Based on the comments received in response to the May 1978 notice and other available information, we have concluded that the entitlements program should be amended to provide entitlement benefits for additional synthetic fuels produced from domestic sources.

II. Proposed Amendments

A. *General Objectives.* Most domestic crude oil production is subject to price regulation which keeps the cost of such crude oil below the world market price. The entitlements program is intended to equalize the weighted average crude oil costs of all refiners as a means of ensuring that the benefits of price regulations are equitably distributed. These programs combine to result in the effective price of all crude oil used in the United States being lower than the world market price for crude oil.*

While petroleum substitutes are not subject to price regulation, these fuels cannot be expected to command a price higher than the effective price of crude oil. Furthermore, a petroleum substitute may not be economically viable when sold at the effective price for crude oil. Moreover, because the pricing regulations and the entitlements program restrain the price of petroleum products, they may be considered to place certain petroleum substitutes at a competitive disadvantage with respect to crude oil and petroleum products.

Our authority to regulate crude oil prices under the Emergency Petroleum Allocation Act of 1973 (EPAA, 15 U.S.C. 751 *et seq.*, Pub. L. 93–159, as amended) is currently scheduled to expire on September 30, 1981. The expiration of such authority—or the prior administrative deregulation of crude oil prices—would effectively eliminate further disincentives to the production and use of petroleum substitutes which would result from the continuation of our current regulatory actions with respect to crude oil pricing.

Since we believe that the regulatory bias against synthetic fuels should be removed as soon as possible, we are proposing amendments which would insure fair treatment of petroleum substitutes for the duration of crude oil price controls. We have not, however, reached a final determination as to whether our authority under the EPAA extends to granting entitlements for each of the proposed substitutes or others that might be suggested. This notice of proposed rulemaking is intended to aid us in determining the need for the actions contemplated herein and to give notice that we intend to implement any of the proposed actions which we deem appropriate and within our statutory authority.

B. *Calculating Entitlement Benefits.* The May 1978 final rule to permit entitlement benefits for synthetic fuels has two aspects. One part permits the automatic inclusion in the entitlements program of a liquid synthetic fuel produced from oil shale found in the United States and used as a feedstock or fuel in a domestic refinery. The second part provides for the inclusion on a case-by-case basis of other synthetic liquid fuels (as well as shale oil used for non-refining purposes) produced from domestic oil shale, biomass, coal, tar sands, or solid-waste materials. The amendments proposed today would make additional synthetic fuels eligible for entitlement benefits under each part of the current regulatory scheme.

The May 1978 final rule provides for the issuance of entitlements with respect to a barrel of shale oil on the same basis as a barrel of crude oil. A liquid synthetic fuel other than shale oil may receive entitlements based on its per barrel (42 gallons) heating value relative to that of crude oil of 40° API gravity, which is established to be 5.7 million BTU's per barrel.

We have concluded that the issuance of entitlements under the amendments proposed today should also reflect the heating value of these synthetic fuels relative to that of crude oil. We believe the most feasible method of accomplishing this objective would be to base the issuance of entitlements on an appropriate physical unit of measurement for each synthetic fuel proposed for inclusion in the entitlements program. Therefore, we are specifically requesting comments as to the appropriate categorization and units of measurements for each of the synthetic fuels to which we are proposing to extend entitlement benefits. Comments in this regard should, if possible, include a discussion of factors affecting both the amount of potentially available energy in each such unit of measurement and the amount of energy which can be practicably delivered per unit.

We recognize that the nature of some of the petroleum substitutes covered by this notice may make the utilization of volumetric or weight measurements infeasible as a basis for the issuance of entitlements. Therefore, we also welcome your suggestions as to other methods for calculating entitlement benefits which you believe would be more appropriate.

As under the May 1978 final rule, the synthetic fuels considered herein would not be subject to entitlement obligations. Thus, the treatment of these fuels would be similar in this respect to the treatment of imported and exempt domestic crude oil under the entitlements program.

C. *Synthetic Fuels Proposed for Inclusion.*—To be most effective in eliminating the regulatory bias against synthetic fuels, assurance of inclusion in the entitlements program should be present prior to the construction or

* Those who are unfamiliar with the crude oil pricing and entitlements programs may find a description of these programs and their historical development attached as an appendix to a notice of inquiry issued by the ERA on April 5, 1978 and entitled "Simplification of Crude Oil Price Controls" (43 FR 15158, April 11, 1978).

expansion of facilities to produce or utilize such fuels. Therefore, we stated in the May 1978 notice that as we gained more experience and information regarding synthetic fuel production we might determine to make additional categories of synthetic fuels eligible for automatic inclusion in the entitlements program.

It is our preliminary conclusion that current information regarding the technological development and use of synthetic fuels warrants the automatic inclusion of additional synthetic fuels in the entitlements program as a means of encouraging the further development of these fuels. Based on this conclusion, we are proposing the amendments set forth below. However, we are specifically requesting comments as to the effect the adoption of today's proposals might have on the commercial availability of these synthetic fuels. Since our authority under the EPAA to regulate crude oil prices is scheduled to expire on September 30, 1981, we recognize that the increased administrative burden associated with certain of the proposed actions might not be justified by the benefit to be conferred. In this regard, we request comments on whether each of the proposed synthetic fuels would continue to be viable in the event the entitlements program is eliminated on or prior to September 30, 1981.

1. *Municipal waste.* Because solid waste represents a significant fuel source, we are proposing to amend section 211.67(a)(5) to provide for the issuance of entitlements with respect to solid municipal waste burned as fuel or used to produce a solid fuel. To ensure that entitlement benefits would be available only to energy used for useful purposes, entitlements would be issuable only to the person who first obtains the solid municipal waste for use as fuel or to produce a solid fuel and certifies such use to the ERA.

Our decision to propose automatic inclusion in the entitlements program only for those fuels which are in solid form and which are derived from municipal waste sources is based on our determination that in view of currently available information automatic inclusion would be appropriate and administratively feasible only for those fuels meeting these criteria. However, we are also proposing that gaseous fuels derived from solid waste materials, as well as solid fuels derived from non-municipal solid waste sources, be treated the same as liquid solid-waste derivatives, which are currently eligible on a case-by-case basis for inclusion in the entitlements program. In the event we determine to adopt an amendment to permit inclusion in the entitlements program of solid and gaseous derivatives of solid waste on a case-by-case basis, the guidelines currently in use to determine eligibility would be revised following opportunity for public comment to establish the criteria and procedures we would follow in determining the number of entitlements and eligible recipients thereof with respect to these fuels.

Since the heating value of municipal waste and its derivatives can vary greatly depending upon source and degree of processing, we believe it will be necessary to establish various subcategories of this particular synthetic fuel in order to calculate entitlement benefits on the basis of crude oil equivalency. You suggestions as to the appropriate categorization of municipal waste are invited. We request that comments in this regard include a discussion of the factors which affect the energy content of this fuel source.

We recognize that a fuel may represent the same amount of potential energy as measured in BTU's as a barrel of crude oil but not have the same coversion efficency as crude oil when burned in state-of-the-art systems to generate useful energy. Therefore, we are also requesting comments in this regard with respect to municipal waste and its derivatives, as well as other synthetic fuels which are subjects of this proposal. On the basis of such comments, we may determine that conversion efficiency factors should be employed in calculating entitlements.

In making a final determination as to what sources of municipal waste should be eligible for inclusion in the entitlements program, we will consider the effects any action we might take would have on such conservation efforts as paper and plastic recycling. We request that comments include, if possible, an evaluation of the net energy gain or loss which would result from the use for fuel purposes of sources of municipal waste which could otherwise be recycled.

2. *Coal mixed with petroleum product.* We believe that the coal component of a slurry of coal and petroleum product should also be eligible for automatic inclusion in the entitlements program. Therefore, we are proposing to amend § 211.67(a)(5) to provide that entitlements be issuable to the first person who uses the coal to produce a coal and petroleum slurry.

The issuance of entitlement benefits to coal included in coal and petroleum slurries would reduce the effective cost of that coal relative to that of coal used for other purposes. Since this result might create an incentive to misrepresent the intended use of coal, the issuance of entitlements would be conditioned upon certification that the coal was actually mixed with a petroleum product.

Since the heating value of coal varies depending on the type of coal concerned, we are requesting specific comments as to what categories of coal should be utilized in issuing entitlements based on the relative heating values of coal and crude oil.

3. *Alcohol derived from biomass.* We have determined that ethyl and methyl alcohol derived from biomass should be eligible for automatic inclusion in the entitlements program when mixed with gasoline to produce gasohol. Our determination to propose the automatic inclusion of alcohol only when mixed with gasoline is based on our understanding that the commercial use of alcohol as a fuel in the United States is currently limited to its use in producing gasohol. However, all alcohol derived from biomass will continue to be eligible for inclusion in the entitlements program on a case-by-case basis.

We are proposing to designate producers of alcohol used to produce gasohol as the eligible recipients of entitlements, since the large number of firms which produce gasohol might make designation of gasohol blenders administratively impractical. However, we also recognize that designation of alcohol producers would result in increased opportunity for miscertification since alcohol is used for many industrial purposes, including the production of alcoholic beverages. Therefore, we are requesting comments as to whom entitlements for alcohol used to produce gasohol should be issuable.

In determining the appropriate recipients of entitlements issued with respect to alcohol, we must consider regulations adopted by other federal agencies. For example, an industrial user of alcohol must obtain an industrial user's permit and post a bond in order to qualify for the lower federal excise tax rate applicable to alcohol purchased for non-distillation purposes. In addition, effective January 1, 1979, purchasers of gasoline which is blended with alcohol to produce gasohol may apply to the Internal Revenue Service for exemption from the normally applicable four-cents-per-gallon federal excise tax on gasoline sales. We request that comments regarding the appropriate placement of entitlements with respect to alcohol be prepared in view of these considerations.

Today's proposal covers both ethyl and methyl alcohol. We recognize, however, that methyl alcohol is not as widely utilized as ethyl alcohol as a fuel source primarily because it is more volatile than ethyl alcohol. Specific comments are requested to aid in our further consideration as to whether entitlement benefits should be granted to both of these products.

4. *Shale oil used for non-refining purposes.* Shale oil used in a refinery is currently eligible for automatic inclusion in the entitlements program. However, shale oil used for non-refining purposes is eligible for entitlement benefits only following review by the ERA on a case-by-case basis.

We believe that all shale oil produced from domestic sources should be eligible for automatic inclusion in the entitlements program. Therefore, we propose to amend § 211.67(a)(5) to provide that with respect to shale oil used for non-refining purposes, the producer of the shale oil shall be issued the same number of entitlements that would be received by a refiner if each barrel of the shale oil were a barrel of crude oil.

Our tentative decision to propose that entitlements with respect to shale oil used for non-refining purposes be issued to the producer of the shale oil, as opposed to the producer's non-refining customers, is based in part upon our determination that designating the shale oil producer as the eligible recipient of entitlements would minimize the number of shale oil participants in the entitlements program. Furthermore, it appears that most shale oil producers are also refiners and would, therefore, already be participating in the entitlements' program.

5. *Methane produced from municipal sewage.* We believe that methane derived from municipal sewage and landfills represents a significant alternative to crude oil. Therefore, we are also proposing an amendment to § 211.67(a)(5) which would provide for the automatic inclusion in the entitlements program of methane derived from municipal sewage. Under the amendment as proposed today, entitlements for methane would be issuable to the producer of the methane.

6. *Wood mixed with petroleum product.* Finally, we are proposing an amendment to provide for the automatic inclusion in the entitlements program of processed wood when mixed with petroleum product. We are proposing that the eligible entitlements' recipient with respect to processed wood be the person who processes the wood and certifies to the ERA that such processed wood has been blended with petroleum product.

III. Proposed Effective Date

In the event we determine to issue a final rule in this proceeding, it is our tentative determination that any amendments adopted thereby should be made effective June 1, 1979. This determination is based both on our belief that any action to remove the regulatory bias against synthetic fuels should be made effective as soon as possible and to ensure that current production and use of these fuels as crude oil alternatives will not be interrupted pending our final determinations with regard to today's proposals. We welcome comments as to the appropriate effective date for any amendments we may adopt in the course of this rulemaking proceeding.

IV. Comment Procedures

A. Written Comments

You are invited to participate in this proceeding by submitting data, views or arguments with respect to the issues set forth in this notice of proposed rulemaking. All comments should be submitted by 4:30 p.m., e.s.t., August 1, 1979 to the appropriate address indicated in the "Addresses" section of this preamble and should be identified on the outside envelope and on documents submitted with the designation "Proposed Amendments to Include Additional Petroleum Substitutes in the Entitlements Program," Docket No. ERA–R–79–*28*. Ten copies should be submitted. All comments received by the ERA will be available for public inspection in the DOE Freedom of Information Office, Room GA–152, Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C. between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

You should identify any information or data considered by you to be confidential and submit it in writing, one copy only. We reserve the right to determine the confidential status of the information or data and to treat it according to our determination.

B. Public Hearing

1. *Procedure for requests to make oral presentation.* The time and place for the hearing are indicated in the "Dates" and "Addresses" sections of the preamble. If necessary to present all testimony, the hearing will resume at 9:30 a.m. on the next business day following the first day of the hearing.

You may make a written request for an opportunity to make an oral presentation. If so, you should describe the interest concerned; if appropriate, state why you are a proper representative of a group or class of persons that has such an interest; and provide a concise summary of the proposed oral presentation and a phone number where you may be contacted through the day before the hearing. If you are selected to be heard at the hearing, we will notify you before 4:30 p.m., July 13, 1979. You will be required to make 100 copies of your statement available in Room 2214, 2000 M Street, NW, Washington, D.C. 20461 by 4:30 p.m., July 16, 1979.

2. *Conduct of the hearing.* We reserve the right to select the persons to be heard at the hearing (in the event there are more requests to be heard than time allows), 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 upon the number of persons requesting to be heard.

An ERA official will be designated to preside at the hearing. This will not be a judicial-type hearing. Questions may be asked only by those conducting the hearing. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

You may also submit questions to be asked of any person making a statement at the hearing to the address indicated above for requests to speak by 4:30 p.m., July 12, 1979. If you wish to ask a question at the hearing, you may submit the question, in writing, to the presiding officer. The presiding officer will determine whether the question is relevant, and whether time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made. The entire record of the hearing, including the transcript, will be retained by the ERA and made available for inspection in the DOE Freedom of Information Office, Room GA–152, Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C., and in the ERA Office of Public Information, Room B–110, 2000 M Street, NW, Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through

Friday. You may purchase a copy of the transcript from the reporter.

V. Other Matters

We have decided that the preparation of a regulatory analysis is not required for this proposal under Executive Order No. 12044, entitled "Improving Government Regulations" (43 FR 12661, March 24, 1978), or DOE's implementing Order 2030 (44 FR 1032, January 3, 1979). Our decision in this regard is based on the following determinations:

(1) The proposal is not likely to have a substantial effect on any of the objectives of national energy policy or energy statutes;

(2) The regulation is not likely to impose;

(a) Gross economic costs of $100 million per year; or

(b) A major increase in costs or prices for individual industries, levels of government, geographic regions, or demographic groups;

(3) The regulation is not likely to have an adverse impact on competition; and

(4) Neither the Secretary, Deputy Secretary, or Under Secretary of the DOE considers the regulation likely to have a major impact for any other reason.

In the event we determine to issue a final rule in this proceeding, we will reconsider our decision in this matter in view of the comments we receive. If we determine that a regulatory analysis would be required with respect to any such final rule, our findings pursuant thereto will be made publicly available at the time of issuance of the final rule.

As required by section 7(a) of the Federal Energy Administration Act of 1974 (15 U.S.C. 787 *et seq.*, Pub. L. 93–275, as amended) a copy of this notice has been submitted to the Administrator of the Environmental Protection Agency (EPA) for his comments concerning the impact of this proposal on the quality of the environment. The EPA Administrator initially responded on March 29, 1979 by requesting that the proposed actions be delayed in order to perform an environmental impact analysis. After reviewing the results of the ERA's preliminary analysis of the potential effects of the proposed actions, the EPA Administrator submitted modified comments on May 2, 1979 requesting only that the ERA further analyze the proposed actions following publication of the proposals in order to fully reassess their environmental implications in view of the public comments received. The EPA Administrator recommended, however, that solar industrial process heat and solar commercial space heating be considered for inclusion in the proposed rulemaking.

After reviewing today's proposals, we have tentatively concluded that they would not constitute a major federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act and, therefore, that the preparation of an Environmental Impact Statement for this proposal is not required under 10 CFR Part 208. However, we will reconsider this decision in view of the comments received in this proceeding and will make a final determination in this matter prior to the issuance of any final rule.

A previously published document analyzed the generic environmental impacts associated with fuels derived from solid waste. This document, entitled *Final Environmental Impact Statement for Alternative Fuels Demonstration Program* (ERDA–1547, September 1977), is available for public inspection in the DOE Freedom of Information Office, Room GA–152, Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C. between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

In response to the EPA Administrator's recommendation regarding solar energy, we are hereby requesting comments as to whether we should in any further notice we may issue in this proceeding propose the inclusion in the entitlements program of solar energy used to produce industrial process heat or commercial space heating.

Pursuant to the requirements of section 404(a) of the Department of Energy Organization Act (42 U.S.C. 7101 *et seq.*, Pub. L. 95–91), we have referred this proposed rule, concurrently with the issuance hereof, to the Federal Energy Regulatory Commission for a determination as to whether the proposed rule would significantly affect any matter within the Commission's jurisdiction.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. 751 *et seq.*, 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, 15 U.S.C. 787 *et seq.*, Pub. L. 93–275, as amended, Pub. L. 94–332, Pub. L. 94–385, Pub. L. 95–70, and Pub. L. 95–91; Energy Policy and Conservation Act, 42 U.S.C. 6201 *et seq.*, Pub. L. 94–163, as amended, Pub. L. 94–385, and Pub. L. 95–70; Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*, Pub. L. 95–91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, Part 211 of Chapter II, Title 10 of the Code of Federal Regulations, is proposed to be amended as set forth below.

Issued in Washington, D.C., May 27, 1979.

David J. Bardin,

Administrator, Economic Regulatory Administration.

1. Section 211.62 is amended to revise the definition of "petroleum substitute" to read as follows:

§ 211.62 Definitions.

* * * * *

"Petroleum substitute" means, when used as fuel in the United States, any of the following: (a)(1) a liquid produced from domestic oil shale; (2) alcohol derived from domestic biomass when mixed with gasoline; (3) domestically produced coal included in a slurry with petroleum product; (4) domestically found solid municipal waste or any solid derivative thereof; (5) wood found domestically and mixed with petroleum product; or (6) methane derived from domestic sources of municipal sewage or landfills; or (b), as designated in orders issued by the ERA following review of applications submitted under Subpart G of Part 205 of this Chapter, (1) any other fuel derived from domestically found solid-waste materials; or (2) any other synthetic fuel in a liquid form which is derived from domestic biomass, coal, or tar sands.

* * * * *

2. Section 211.67 is amended by revising subparagraph (5) of paragraph (a) to read as follows:

§ 211.67 Allocation of domestic crude oil.

(a) *issuance of entitlements.*

* * * * *

(5) For each month, commencing with the month of April 1979, entitlements shall be issued with respect to a petroleum substitute as follows:

(i) In the case of a shale oil, the producer of the shale oil shall be issued that number of entitlements that would be received by a refiner if each barrel of the shale oil were a barrel of crude oil;

(ii) In the case of alcohol derived from biomass and mixed with gasoline, the producer of the alcohol shall upon certification to the ERA that the alcohol has been mixed with or was sold for mixture with petroleum product be issued that number of entitlements that would be received by a refiner if [designated unit of measurement] of alcohol were a barrel of crude oil;

(iii) In the case of a mixture of [category of coal] and petroleum product, the first person who uses the coal to produce a coal and petroleum

product mixture and certifies such use to the ERA shall be issued that number of entitlements that would be received by a refiner if [designated unit of measurement] of [category of coal] were a barrel of crude oil.

(iv) In the case of [category of solid municipal waste or solid derivative thereof], the person who first obtains the solid waste for use as fuel or to produce a solid fuel and certifies such use to the ERA shall be issued that number of entitlements that would be received by a refiner if [designated unit of measurement] of the petroleum substitute were a barrel of crude oil.

(v) In the case of processed wood mixed with petroleum product, the person who processes the wood and certifies to the ERA that the processed wood has been blended with petroleum product shall be issued that number of entitlements that would be received by a refiner if [designated unit of measurement] of the processed wood were a barrel of crude oil.

(vi) In the case of methane derived from municipal waste or landfills, the producer of the methane will be issued that number of entitlements that would be received by a refiner if [designated unit of measurement] of methane were a barrel of crude oil.

(vii) In the case of solid waste or a solid or gaseous derivative thereof which has been designated as a petroleum substitute by the ERA in an order issued pursuant to § 205.95 of Part 205 of this Chapter, that person designated by the ERA as eligible to participate in the entitlements program with respect to the petroleum substitute shall be issued that number of entitlements that would be received by a refiner if the unit of measurement established by the ERA for the petroleum substitute were a barrel of crude oil.

(viii) In the case of a liquid petroleum substitute which has been designated as a petroleum substitute by the ERA in an order issued pursuant to § 205.95 of Part 205 of this Chapter and which has a gross heating value of 5.7 million or more BTU's per barrel, that person designated by the ERA as eligible to participate in the entitlements program with respect to the petroleum substitute shall be issued that number of entitlements that would be received by a refiner if a barrel of the petroleum substitute were a barrel of crude oil.

(ix) In the case of a liquid petroleum substitute which has been designated as a petroleum substitute by the ERA in an order issued pursuant to § 205.95 of Part 205 of this Chapter and which has a gross heating value of less than 5.7 million BTU's per barrel, that person designated by the ERA as eligible to participate in the entitlements program with respect to the petroleum substitute shall be issued that number of entitlements that would be received by a refiner if a barrel of the petroleum substitute were equal to a fraction of a barrel of crude oil, the numerator of which would be the gross heating value in BTU's per barrel of the petroleum substitute, and the denominator of which would be 5.7 million BTU's.

* * * * *

[FR Doc. 79-17288 Filed 6-4-79; 8:45 am]
BILLING CODE 6450-01-M

NATIONAL CREDIT UNION ADMINISTRATION

[12 CFR Part 701]

Organization and Operations of Federal Credit Unions; Advance Notice of Proposed Rulemaking on Debt Collection Practices; Extension of Comment Period

AGENCY: National Credit Union Administration.

ACTION: Extension of comment period.

SUMMARY: The National Credit Union Administration has requested comments on the questions of whether, and to what extent, it should regulate the debt collection practices of Federal credit unions. In order to give all interested persons adequate opportunity to comment, the comment period is being extended.

DATES: Comments must be received on or before June 30, 1979.

ADDRESS: Send comments to Robert S. Monheit, Senior Attorney, Office of General Counsel, National Credit Union Administration, Room 4202, 2025 M Street, N.W., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Joseph F. Myers, Consumer Affairs Specialist, Division of Consumer Affairs, Office of Examination and Insurance, or John L. Culhane, Jr., Attorney Advisor, Office of General Counsel, National Credit Union Administration, 2025 M Street, N.W., Washington, D.C. 20456. Telephone numbers: (202) 254-8760 (Mr. Myers), (202) 632-4870 (Mr. Culhane).

SUPPLEMENTARY INFORMATION: Based on the comments which have been received to date, NCUA believes that certain matters need to be clarified. On April 5, 1979, NCUA published in the **Federal Register** an Advance Notice of Proposed Rulemaking. 44 FR 20447 (1979). Comments were requested so that NCUA could determine the nature and degree of any abusive debt collection practices and so that NCUA could determine if credit unions making a good faith effort to comply with different Federal laws, state laws, and Federal regulations have encountered problems. Comments were also requested as to what NCUA should do, assuming the existence of problems which warrant further action. Three alternatives were suggested: (1) continue the present practice, (2) publish a statement of policy, and (3) publish a regulation. NCUA welcomed as to other alternatives.

Several commenters have mistakenly assumed that NCUA is committed to proposing a regulation. That is *not* the case. A regulation is merely one alternative which has been suggested and which will be considered.

Other commenters have suggested that the number of complaints which have been received (50) are too few to warrant any further action. NCUA agrees that if this number is indicative of the practices used by Federal credit unions generally, then Federal credit unions have shown commendable restraint in collecting on delinquent loans. The Administration is concerned, however, that this number may not be representative, either because members are not aware of their rights or are not aware of how to contact NCUA.

Finally, many commenters have expressed concern that if NCUA adds a regulation, it will simply be compounding the problem that exists because of the number and diversity of laws and regulations governing debt collection. While no final determination has been made, based on a preliminary study NCUA believes that a comprehensive regulation could completely preempt state laws governing debt collection practices for Federal credit unions. (In general, if a Federal regulation completely preempts state laws, when Federal credit unions only have to comply with the regulation. They do not have to follow the state laws.) Commenters, especially credit union leagues and trade associations which have their own attorneys, may therefore want to address these questions: First, would a regulation that completely preempts state law be desirable? Second, would a regulation adopted by NCUA preempt state laws governing debt collection practices for Federal credit union conducting their own collection programs?

Dated: May 30, 1979.

Lawrence Connell,

Administrator.

[FR Doc. 79-17301 Filed 6-4-79; 8:45 am]

BILLING CODE 7535-01-M

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[File No. 791 0077]

Howard Johnson Co.; Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, accepted subject to final Commission approval, would require a Boston, Mass. restaurant chain, among other things to cease requiring its licencees to purchase food products, or other products or services from the company, or from particular sources. The firm would be additionally required to cancel or delete from its franchising agreements all provisions which fail to conform with the terms of the order.

DATE: Comments must be received on or before August 3, 1979.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th St. and Pennsylvania Ave., NW, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Lois G. Pines, Director, 2R, Boston Regional Office, Federal Trade Commission, 150 Causeway St., Rm. 1301, Boston, Mass. 02114. (617) 223-6621.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

Agreement Containing Consent Order To Cease and Desist

In the matter of Howard Johnson Company, a corporation.

The Federal Trade Commission having initiated an investigation of certain acts and practices of Howard Johnson Company, a corporation, and it now appearing that Howard Johnson Company, hereinafter sometimes referred to as proposed respondent, is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated.

It is hereby agreed by and between Howard Johnson Company, a corporation, by its duly authorized officer, and its attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent Howard Johnson Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Maryland, with its office and principal place of business located at One Howard Johnson Plaza, Boston, Massachusetts 02125.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become a part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby and related material pursuant to Rule 2.34, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondents, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Mailing of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall consititute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby, and understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order, and it may be liable for a civil penalty in the amount provided by law for each violation of the order after it becomes final.

I

Definitions

For the purposes of this order the following definitions shall apply:

"Ice cream products" means ice cream, ice milk, sherbert, ice cream cake, ice cream pie, frostee, thick shake mix, frozen yogurt, and yogurt mix;

"Food products" means all foodstuffs, including, but not limited to, syrups and toppings, condiments, candy, bakery products, dry mixes, processed foods, raw and prepared meats, fish and poultry, chowders, gravies, soups and ice cream products; and

"Howard Johnson's" restaurant means a restaurant operated by Howard Johnson Company or its licensee under the trade name "Howard Johnson's."

It is ordered, That Howard Johnson Company, a corporation, its successors and assigns, and its officers, and respondent's agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with its operation of a food manufacturing business and franchising or licensing of persons to operate a "Howard Johnson's" restaurant business, do forthwith cease and desist from requiring in any manner or by any means, directly or indirectly, its licensees to purchase food products (with the exception of the products listed in Appendix A attached hereto which are manufactured by Howard Johnson Company itself) or any other products or services from respondent or from any other source.

Provided, that nothing in this order shall prohibit respondent from establishing reasonable and uniform standards of manufacture, specifications, recipes or formulae for products sold or used in its licensed restaurants, if such standards, specifications, recipes or formulae are made available without charge to manufacturers desiring to produce products for "Howard Johnson's" restaurant licensees pursuant to them. Furnishing of standards, specifications, recipes or formulae my be made subject to assurance of confidential treatment by those to whom they are provided.

Provided further that if, subsequent to the date on which this order becomes final, respondent wishes to present to the Commission any reasons why the provisions of this order should not apply to any other product manufactured by respondent, it shall submit to the Commission a written statement setting forth said reasons and shall not require licensees to purchase said product from Howard Johnson Company or any other source without the prior approval of the Federal Trade Commission.

II

It is further ordered, That respondent herein shall, within thirty (30) days after service upon it of this order, mail or deliver a copy of this order to each of its operating divisions and to each of its present officers, and shall secure a signed statement acknowledging receipt of said order from each such entity or person.

III

It is further ordered, That respondent herein shall, within thirty (30) days after service upon it of this order, mail or deliver a copy of this order to each present licensee under cover of the letter annexed hereto as Appendix B, and furnish the Commission proof of mailing thereof.

IV

It is further ordered, That the respondent shall within thirty (30) days after service upon it of this order, take all necessary action to effect the cancellation or deletion of each provision of every contract or agreement between respondent and any of its "Howard Johnson's" restaurant licensees which is contrary to, or inconsistent with, any provision of this order.

V

It is further ordered, That respondent notify the Commission at least thirty (30) days prior to any proposed change in the respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

VI

It is further ordered, That respondent herein shall within sixty (60) days after service upon it of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

Appendix A

Syrups and Toppings

Chocolate syrup, Fudge and Butterscotch topping.

Ice Cream Products

(Ice cream, ice milk, sherbert, ice cream cake, ice cream pie, frostee, thick shake mix, frozen yogurt and yogurt mix.)

Bakery Products

Coconut Layer Cake, Fudge Layer Cake, Apple, Blueberry, Cherry, Peach, Pecan and Squash Pies, Brownies, Chocolate Chip Cookies, Corn and Blueberry Toastees.

Prepared Foods

Beef Burgundy, Beef Stroganoff, Chicken Pie, Clam Chowder.

Other

Frying Clams, Frankforts, Candy in Howard Johnson's trademark packages or wrappers. [Licensee is free to purchase candy from other sources in whatever quantity it chooses provided it is not identified as "Howard Johnson's".]

Appendix B

(Howard Johnson Company Letterhead)

Dear Sir/Madame: Howard Johnson Company has entered into an agreement with the Federal Trade Commission relating to the company's policy requiring that licensees purchase certain food products only from the company. A copy of the consent order entered into pursuant to that agreement is attached hereto.

Howard Johnson Company has entered into this agreement solely for settlement purposes, and the agreement and consent order are not to be construed as an admission by Howard Johnson's that it has violated any of the laws administered by the Commission, or that any of the allegations of the complaint are true and correct. Instead, the order merely relates to the activities of the company in the future.

The consent order prohibits Howard Johnson Company from requiring you to purchase from it food products (other than those products which are manufactured by Howard Johnson Company and listed in Appendix A attached to the order) or any other products or services. Therefore, the products listed in Appendix A are the only food products you are required to purchase from Howard Johnson Company, and any provisions of your license agreement requiring you to purchase other food products from Howard Johnson Company or any other source are hereby deleted and cancelled.

Howard Johnson's retains the right to establish reasonable standards of manufacture, reasonable specifications or reasonable recipes or formulae for products sold in Howard Johnson's restaurants operated by licensees. The company will supply any standards, specifications, recipes or formulae so established, without cost, to other manufacturers who may desire to sell the products to Howard Johnson's licensees.

Sincerely,

Howard B. Johnson,

Chairman of the Board and President, Howard Johnson Company.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The complaint accompanying the proposed order alleges that Howard Johnson Company has engaged in certain anticompetitive practices by pursuing a policy or plan whereby its "Howard Johnson's" restaurant licensees are required to purchase a substantial portion of the food products used in their restaurant business from Howard Johnson Company. This policy or plan is accomplished by the inclusion of provisions in the company's "Operator's Agreement" requiring that

"Howard Johnson's" restaurant licensees purchase their total requirements of approximately 170 food products from the company.

The proposed consent order compels Howard Johnson Company to cease and desist from requiring its licensees to purchase food products (with limited exceptions) or any other products or services from the company or from any other source. The only food products excepted from this provisions are those whose ingredients are not susceptible to specification in such a way as to render duplication by competing manufacturers practicable and those which are unique and distinctive of Howard Johnson Company.

The proposed consent order further requires Howard Johnson Company to cancel or delete every provision of every contract or agreement which it has with any of its "Howard Johnson's" restaurant licensees which is contrary to or inconsistent with the terms of the proposed consent order; and to notify all of its present licensees as to the provisions of the consent order.

It is anticipated that the proposed consent order will effect manufacturers of food products who compete with Howard Johnson Company as well as "Howard Johnson's" restaurant licensees. Competitors will benefit because they will no longer be foreclosed from doing business with "Howard Johnson's" restaurant licensees, and the licensees will benefit from the availability of alternative sources of supply.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Carol M. Thomas,

Secretary.

[FR Doc. 79-17289 Filed 6-4-79; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

[20 CFR Part 655]

Labor Certification Process for the Temporary Employment of Aliens in Agriculture: Adverse Effect Wage Rate for Colorado; Notice of Proposed Rulemaking

AGENCY: Employment and Training Administration, Labor.

ACTION: Proposed rulemaking.

SUMMARY: The Department of labor proposes to publish annually an adverse effect wage rate for the State of Colorado, that is, the minimum wage rate which the Department has determined must be offered and paid by the employers of nonimmigrant alien agricultural workers in the State of Colorado. The adverse effect wage rate for Colorado will be established and set to prevent the employment of these aliens from having an adverse effect on the wages of similarly employed United States workers.

DATE: Interested persons are invited to submit written comments on this proposed regulation on or before July 5, 1979. The comment period is being limited to 30 days due to the imminent harvest season in Colorado. A longer period would delay the effect of the adverse effect wage rate on crop activities in that State.

ADDRESS: Send Written Comments To: Mr. William B. Lewis, Administrator, U.S. Employment Service, Employment and Training Administration, U.S. Department of Labor, Room 8000—Patrick Henry Building, 601 "D" Street, NW., Washington, D.C. 20213.

FOR FURTHER INFORMATION CONTACT: Mr. Aaron Bodin, Chief, Division of Labor Certification, U.S. Employment Service, Employment and Training Administration, U.S. Department of Labor, Room 8410, 601 "D" Street, NW., Washington, D.C. 20213. Telephone: 202-376-6295.

SUPPLEMENTARY INFORMATION:

Introduction

1. The Employment and Training Administration (ETA) of the Department of Labor (DOL) is proposing to amend its regulations at 20 CFR 655.207(b)(2) to add the State of Colorado to the list of States for which the Administrator, U.S. Employment Service, must compute and publish annually an adverse effect wage rate for the temporary employment of nonimmigrant aliens in agricultural occupations. DOL's regulations for the certification of temporary employment of nonimmigrant aliens are issued pursuant to the Immigration and Naturalization Service (INS) regulations at 8 CFR 214.2(h)(3)(i), set forth in pertinent part below:

> Either a certification from the Secretary of Labor or his designated representatives stating that qualified persons in the United States are not available and that the employment of the beneficiary will not adversely affect the wages and working conditions of workers in the United States similarly employed, or a notice that such certification cannot be made shall be attached to every nonimmigrant visa petition to accord an alien a classification under Section 101(a) (15)(H)(ii) of the [Immigration and Nationality] Act. [8 U.S.C. 1101(a)(15)(H)(ii).]

Temporary Alien Employment Certification Process

2. Whether to grant or deny a nonimmigrant visa petition under 8 U.S.C. 1101(a)(15)(H)(ii) is solely the decision of INS policy, however, as expressed in its above-quoted regulation, that, before INS will grant or deny such a visa, it first requests DOL to advise INS with respect to two issues:

(a) Whether there are a sufficient number of able, willing, and qualified U.S. workers available to do the work proposed to be done by the alien; and

(b) Whether the employment of the alien will adversely affect the wages and working conditions of similarly employed U.S. workers.

3. If DOL determines that there are no able, willing, qualified, and available U.S. workers, and that the employment of the alien will not adversely affect similarly employed U.S. workers, DOL advises INS of these findings, by issuing a temporary labor certification. The employer proposing to use the alien for temporary work then attaches the certification as part of the alien's visa petition, pursuant to 8 CFR 214.2(h)(3)(i).

4. If DOL cannot make one or both of the above findings, DOL so advises INS. DOL may be unable to make the two required findings for any of one or more reasons, including, but not limited to:

(a) The employer seeking the temporary labor certification on behalf of the alien has not submitted a proper temporary labor certification application, or has not followed the proper procedural steps.

(b) The employer has not met its burden of proof under section 291 of the INA (8 U.S.C. 1361), that is, the employer has not submitted sufficient evidence of attempts to obtain available U.S. workers, and/or the employer has not submitted sufficient evidence that the wages and working conditions which the employer is offering will not adversely affect the wages and working conditions of similarly employed U.S. workers. With respect to the burden of proof, 8 U.S.C. 1361 states, in pertinent part that:

> Whenever any person makes application for a visa or any other document required for entry, or makes application for admission, or otherwise attempts to enter the United States, the burden of proof shall be upon such person to establish that he is eligible to receive such visa or such document, or is not subject to exclusion under any provision of this Act.
> * * *

(c) DOL through its own knowledge and experience, finds that U.S workers are available and/or that an adverse effect on similarly employed U.S. workers will result, and the employer has not met the burden of rebutting DOL's finding or findings.

Department of Labor Regulations

5. DOL has published regulations at 20 CFR Part 655, Subpart C, governing the labor certification process for the temporary employment of nonimmigrant aliens in the United States in agricultural and logging occupations. Part 655 was promulgated pursuant to the Immigration and Naturalization Service (INS) regulations at 8 CFR 214.2(h)(3)(i), quoted above.

6. The regulations in 20 CFR Part 655, Subpart C, set forth the factfinding process designed to develop information sufficient to support the granting or denial of a temporary agricultural labor certification. They describe the potential of the Federal-State system of public employment offices for assisting employers in finding available U.S. workers, and how this process is utilized by DOL as a partial basis of information for the certification determination. See also 20 CFR Parts 602, 621, 651–654, and 656–658.

7. Part 655 also sets forth the responsibilities of employers who desire to employ nonimmigrant aliens in temporary agricultural and logging jobs. Such employers are required to demonstrate that they have attempted to recruit U.S. workers through advertising, though the Federal-State public employment service system, and by other specified means. The purpose is to assure an adequate test of the availability of U.S. workers to perform the work, and to insure that aliens are not employed under conditions adversely affecting the wages and working conditions of similarly employed U.S. workers.

Adverse Effect Wage Rates

8. Under 20 CFR 655.207, the Administrator, United States Employment Service (USES), must annually publish adverse effect wage rates for various named States. Adverse effect wage rates set forth the minimum wages which an employer applying for a temporary alien labor certification must offer and pay to aliens and similarly employed U.S. workers in order to ensure that the wages of the U.S. workers are not adversely affected. An adverse effect wage rate is either the prevailing wage for the occupation or a somewhat higher wage computed by methodology at 20 CFR 655.207(b).

9. The Secretary of Labor has the authority to set such a rate. See *Florida Sugar Cane League* v. *Usery*, 531 F. 2d 299 (5th Cir. 1976); and *Williams* v. *Usery*, 531 F. 2d 305 (5th Cir. 1976), *cert. denied*, 429 U.S. 1000.

10. The adverse effect rate is not set to slow the usage of temporary foreign labor in the United States. Its purpose is to insure that the wage rates of similarly employed U.S. workers will not be adversely affected by the importation of low-paid temporary foreign labor.

11. The rate also is not an effort to apply the legal requirements of the Federal minimum wage law to all employers. Adverse effect wage rates apply only to those employers who are seeking to import temporary foreign labor into the United States. Employers applying for temporary labor certifications must agree to comply with all employment-related laws, however. 20 CFR 655.203(b). If the employment is covered by an Federal, State, or local minimum wage law, the employer must comply with that law. See, *e.g.*, 29 U.S.C. 206(a)(5). Thus, a worker in employment under the temporary alien labor certification program which is covered by both an adverse effect wage rate and a minimum wage law must be compensated at the highest of the applicable wage rates.

12. It should be noted that in 1977, DOL conducted a series of hearings relating to the establishment of the regulations at 20 CFR Part 655, Subpart C. See 43 FR 10305 (March 10, 1978); 42 FR 27261 (May 27, 1977); 42 FR 22378 (May 3, 1978); and 42 FR 1619 (March 25, 1977); see also *Agricultural Labor Certification Programs and Small Business: Hearings Before the Senate Select Committee on Small Business*, Part I, 95th Cong., 1st Sess. 38 (statement of William B. Lewis, Administrator, United States Employment Service) (December 20, 1977). In that series, hearings were held in Colorado and elsewhere, and employers, workers, and other parties commented on the regulations, and commented fully on the general issues surrounding adverse effect wage rates.

13. Separate adverse effect wage rates currently are published annually by the Administrator, U.S. Employment Service (USES), for agricultural employment in the six New England States, New York, Maryland, Virginia, West Virginia, and for employment in the sugar cane industry in Florida. 20 CFR § 655.207(b) (1978). Additionally, a notice of proposed rulemaking was published in the **Federal Register** on May 30, 1978, proposing to add Texas to this list. 43 FR 22996; see 43 FR 29033 (June 16, 1978). The addition of Texas is made, therefore, in the rule poposed below. The rates in all States are either the prevailing wage rate or a somewhat higher wage rate. The adverse effect wage rates for all States are computed under a methodology which has been published numerous times in the **Federal Register**. See, e.g., 41 FR 25018 (June 22, 1976); and 43 FR 10310 (March 10, 1978).

14. While the Administrator, USES, is required to publish adverse effect wage rates for only those States listed in 20 CFR 655.207(b)(2), DOL, for a number of years, has computed rates for the 48 contiguous States, including Colorado, according to the published methodology. The rates were not published, since the numbers of applications for temporary employment of aliens in agriculture had been relatively low in those States. The rates for the 48 contiguous States, including Colorado, were published, at one time, under the regulations in force prior to the promulgation of Part 655, Subpart C. 20 CFR 602.10b(a)(1) (1971); 35 FR 12394 (August 4, 1970).

Adversely Affected Employment in the State of Colorado

15. DOL has found that the employment of nonimmigrant aliens in the State of Colorado has had and will continue to have an adverse effect on the wages of similarly employed United States workers, unless the employers of these aliens are required to offer and to pay their workers an adverse effect wage rate.

16. The use of undocumented alien workers in agriculture in Colorado is substantiated by records of INS. The INS office in Grand Junction, Colorado, was in operation for only nine months of 1978. For about three months of that period (during the summer), budget restrictions limited active apprehension efforts. Even with these limitations, INS apprehended 499 undocumented workers in the area during the six months of active operations. Almost all of these undocumented workers were found in agriculture.

17. For the 1978 apple harvest, those agricultural employers in Colorado who place job orders with the State Job Service guaranteed to pay workers at least $3.36 per hour. This was computed on the basis of a $0.42 per bushel (or $8.40 per twenty-bushel bin) piece rate, for which each worker was assumed to average 7½ twenty-bushel bins picked per day. Staff of the ETA regional office in Denver, Colorado, conducted interviews with workers employed in the 1978 apple harvest in that State. One ETA staff member inteviewed 10 undocumented workers from Mexico.

Each of these 10 workers stated that their piece rate of pay was $6.50 per twenty-bushel bin of apples picked. This rate is far below (over 22.6 percent) the $8.40 per twenty-bushel bin offered by employers who placed job orders with the State Job Service. The undocumented workers interviewed by ETA stated that they had no knowledge of the $8.40 per twenty-bushel bin guaranteed piece rate.

18. For the 1979 harvest, some agricultural employers have filed applications for certifications to employ nonimmigrant aliens temporarily. Yet, even though the employers agreed for the previous year's harvest to recruit U.S. workers at a guaranteed minimum wage of $3.36 per hour, the employers who have filed these applications are this year offering the aliens and U.S. workers only $2.90 per hour, the federally established minimum wage. (29 U.S.C. 206(a)(5)).

19. DOL recently has received applications from some Colorado employers for certification of the temporary employment of nonimmigrant aliens in agricultural occupations. Without a formally established adverse effect wage rate, it is anticipated that many of these nonimmigrant aliens would be employed at wages close to or below the Fedeal minimum wage. As expressed in the mandate from Congress (8 U.S.C. 1101(a)(15)(H)(ii)), in the policy of INS (8 CFR 214.2(h)(i)), and in the policy of DOL (20 CFR 655.0(e)), employers must use, wherever possible, U.S. workers rather than aliens. Where temporary alien workers are admitted, the terms and conditions of their employment must not result in a lowering of the terms and conditions of domestic workers similarly employed.

(20 CFR 655.0(e); 43 FR 10312 (March 10, 1978).)

20. If Colorado employers seeking nonimmigrant aliens for temporary agricultural labor offer those aliens, or U.S. workers, wages below the adverse effect wage rate, DOL will determine that similarly employed U.S. workers will be adversely affected. The wages offered and afforded to temporary aliens and to U.S. workers by specific agricultural employers in Colorado, will be compared to the established adverse effect wage rate. If it is concluded that an adverse effect would result, the ultimate determination of availability of U.S. workers cannot be made. U.S. workers cannot be expected to accept employment under conditions below the established adverse effect levels. 20 CFR 655.0(d).

1979 Colorado Adverse Effect Wage Rate

21. It is anticipated that the rate for 1979 would be $3.59 per hour. The methodology for computing this wage is the same as that used for determining past years' adverse effect wage rates for the States now listed in 20 CFR 655.207(b)(2). DOL has determined that the methodology can be used to construct adverse effect wage rates in a way that is reasonable, cost effective, and geared as much as possible to the reality of agricultural crops, areas, and existing wage factors.

22. As stated above, DOL has computed, for a number of years, a statewide adverse effect wage rate for Colorado agricultural workers, and on the methodology published at 20 CFR 655.207 and at 43 FR 10310 (March 10, 1978). The adverse effect wage rates for agricultural employment in Colorado, computed for the current year and for the preceding five years are shown in the table below:

Annual Adverse Effect Wage Rates: Colorado

	Rate	Percentage increase
Year:		
1979	$3.59	+6.6
1978	3.36	+3.0
1977	3.26	+20.7
1976	2.70	+3.0
1975	2.62	+11.9
1974	2.34	.....

23. For the above reasons, DOL proposes to annually compute and publish an adverse effect wage rate for agricultural employment in the State of Colorado.

Development of Proposed Regulations

24. This proposed rulemaking document was prepared under the direction and control of: Mr. William B. Lewis, Administrator, U.S. Employment Service, Employment and Training Administration, U.S. Department of Labor, Washington, D.C.

Regulatory Impact

25. The proposed rulemaking implements the existing procedures to add new States to 20 CFR 655.207(b)(2). Under those procedures DOL had no choice but to propose adding the State of Colorado to the list. Because the financial and other impact of this proposed regulation is less than specified in DOL's criteria, the effect of the proposed regulation is not so major as to require the preparation of a regulatory analysis. See 44 FR 5576 (January 26, 1979).

Proposed Rule

26. Accordingly, it is proposed to revise section 655.207(b)(2) of Part 655 of Chapter V, Code of Federal Regulations, to read as follows:

§ 655.207 Adverse effect rates.

* * * * * * *

(b) * * *

(2) *List of States.* Colorado, Connecticut, Maine, Maryland, Massachusetts, New Hampshire, New York, Rhode Island, Texas, Virginia, and West Virginia. Other States may be added as appropriate.

(Secretary of Labor's Order No. 4–75, 40 FR 16515).

Signed at Washington, D.C., this 31st day of May, 1979.

Ernest G. Green,

Assistant Secretary for Employment and Training.

[FR Doc. 79–17393 Filed 6–4–79; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Parts 1 and 7]

[LR–168–76]

Determination of Amounts at Risk With Respect to Certain Activities

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the determination of amounts at risk with respect to certain activities. Changes to the applicable tax law were made by the Tax Reform Act of 1976. The regulations would provide the public with the guidance needed to determine the amount of allowable deductions incurred with respect to activities covered by the at risk rules.

DATES: Written comments and requests for a public hearing must be delivered or mailed by August 6, 1979.

The amendments are proposed to be effective for amounts paid or incurred in taxable years beginning after December 31, 1975, except as otherwise provided.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR–168–76), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: David Jacobson of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington,

D.C. 20224, 202–566–3923, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) and the Temporary Income Tax Regulations under the Tax Reform Act of 1976 (26 CFR Part 7) under section 465 of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to section 204 of the Tax Reform Act of 1976 (90 Stat. 1531) and are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Explanation of the Regulations

Section 465 provides a limit on the amount of loss deductions taxpayers engaged in certain activities will be allowed. The activities for which the limits will apply are holding, producing or distributing motion picture films or video tapes; farming; leasing section 1245 property; and exploring for or exploiting oil and gas resources. Section 465 applies to all noncorporate taxpayers engaged in one or more of these activities. In addition, section 465 applies to electing small business corporations and personal holding companies if engaged in one or more of these activities.

Taxpayers to which section 465 applies are not permitted to deduct losses from the listed activities in excess of the amount they are at risk. The proposed regulations provide rules for determining the amount which a taxpayer is at risk. In general, a taxpayer is at risk for cash contributed to the activity as well as for amounts borrowed for use in the activity for which the taxpayer is personally liable. Amounts borrowed on a nonrecourse basis generally will not increase the amount a taxpayer is at risk. However, if property not used in the activity is pledged as security, the amount at risk may be increased to the extent of the net fair market value of the security.

Section 465 also provides that amount borrowed from persons with an interest in the activity other than that of a creditor will not increase the amount at risk. The proposed regulations provide rules for determining who has an interest in the activity other than that of a creditor as well as providing other rules illustrating the applicability of section 465. The proposed regulations contain references to amendments to section 465 made by the Revenue Act of 1978 and the Energy Tax Act of 1978. These references have been added to the proposed regulations in order to alert taxpayers that section 465 has been amended since the time it was originally enacted. However, the proposed regulations do not provide guidance with respect to these amendments. This guidance will be provided in a later regulations project.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

Drafting Information

The principal author of these proposed regulations is David Jacobson of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 1 and 26 CFR Part 7 are as follows:

1. The following sections are added in the appropriate place:

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

General Rules

Sec.

1.465–1 General rules; limitation of deductions to amount at risk.
1.465–2 General rules; allowance of deductions.
1.465–3 General rules; amount at risk below zero.
1.465–4 General rules; rules regarding attempts to avoid the at risk provisions.
1.465–5 General rules; recourse liabilities which become nonrecourse upon the occurrence of an event.
1.465–6 General rules; amounts protected against loss.
1.465–7 General rules; amounts loaned to the activity by the taxpayer.
1.465–8 General rules; interest other than that of a creditor.
1.465–9 General rules; rules of construction.
1.465–10 General rules; rules relating to subchapter S corporations and their shareholders.

Definition of Loss

1.465–11 Definition of loss; in general.
1.465–12 Definition of loss; income from the activity.
1.465–13 Definition of loss; deductions from the activity.

Factors Which Iincrease and Decrease the Amount a Taxpayer Is at Risk in an Activity

1.465–20 Treatment of amounts borrowed from certain persons and amounts protected against loss.
1.465–22 Effect on amount at risk of money transactions.
1.465–23 Effect on amount at risk of property transactions.
1.465–24 Effect on amount at risk of loan for which borrower is personally liable for repayment.
1.465–25 Effect on amount at risk of loan for which borrower is not personally liable for repayment.
1.465–26 Effect of transfers by gift or at death on amount at risk; cross reference.

Ordering and Timing

1.465–38 Ordering rules.
1.465–39 Timing of increases and decreases to the amount at risk.

Examples

1.465–41 Examples.

Activities to Which Section 465 Applies

1.465–42 Activities to which section 465 applies; holding, producing, or distributing motion picture films or video tapes.
1.465–43 Activities to which section 465 applies; farming.
1.465–44 Activities to which section 465 applies; leasing section 1245 property.
1.465–45 Activities to which section 465 applies; exploring for or exploiting, oil and gas resources.

Transfers and Dispositions

1.465–66 Transfers and dispositions; general rule.
1.465–67 Transfers and dispositions; pass through of losses suspended under section 465 (a).
1.465–68 Transfers and dispositions; amounts at risk in excess of losses disallowed.
1.465–69 Transfers and dispositions; amounts at risk in excess of losses disallowed with respect to transfers at death.

Amounts at Risk With Respect to Activities Begun Prior to Effective Date

1.465–75 Amounts at risk with respect to activities begun prior to effective date; in general.
1.465–76 Amounts at risk with respect to activities begun prior to effective date; determination of amount at risk.
1.465–77 Amounts at risk with respect to activities begun prior to effective date; allocation of loss for different taxable years.

Sec.

1.465–78 Amounts at risk with respect to activities begun prior to effective date; insufficient records.

1.465–79 Amounts at risk with respect to activities begun prior to effective date; examples.

Effective Date

1.465–95 Effective date.

General Rules

§ 1.465–1 General rules; limitation of deductions to amount at risk.

§ 1.465–2 General rules; allowance of deductions.

§ 1.465–3 General rules; amount at risk below zero.

§ 1.465–4 General rules; rules regarding attempts to avoid the at risk provisions.

(a) *In general.* For taxable years beginning after December 31, 1975, section 465 generally limits the amount of any loss described in section 465(d) that is otherwise deductible in connection with an activity described in section 465(c)(1). Under section 465 the amount of the loss is allowed as a deduction only to the extent that the taxpayer is at risk with respect to the activity at the close of the taxable year. The determination of the amount the taxpayer is at risk in cases where the activity is engaged in by an entity separate from the taxpayer is made as of the close of the taxable year of the entity engaging in the activity (for example, a partnership). For the purposes of these regulations, in cases where the activity is engaged in by an entity separate from the taxpayer references to a taxable year shall apply to the taxable year of the entity unless otherwise stated. For rules determining the amount at risk and for more specific rules regarding the effective dates, see §§ 1.465–20 through 1.465–25 and 1.465–95.

(b) *Substance over form.* In applying section 465 and these regulations, substance will prevail over form. Regardless of the form a transaction may take, the taxpayer's amount at risk will not be increased if the transaction is inconsistent with normal commercial practices or is, in essence, a device to avoid section 465. See § 1.465–4 for rules regarding attempts to avoid the at risk provisions.

(c) *Activities.* See sections 465(c)(1)(A) through (D) and §§ 1.465–42 through 1.465–45 for the activities to which section 465 applies for taxable years beginning generally after December 31, 1975. These activities are holding, producing, or distributing movies and video tapes, farming, leasing of personal property, and exploring for or exploiting oil and gas resources. See section 465(c)(3) and section 465(c)(1)(E) for additional activities to which section 465 applies for taxable years beginning generally after December 31, 1978.

(d) *Taxpayers affected by at risk provisions.* (1) For taxable years beginning generally after December 31, 1975, section 465 applies to all noncorporate taxpayers, to electing small business corporations (as defined in section 1371(b)), and to personal holding companies (as defined in section 542). For special rules relating to electing small business corporations, see § 1.465–10.

(2) See section 465(a)(1)(C) for additional taxpayers to whom section 465 applies for taxable years beginning generally after December 31, 1978.

(e) *Basis.* The provisions of section 465 and the regulations thereunder are only intended to limit the extent to which certain losses in connection with covered activities may be deducted in a given year by a taxpayer. Section 465 does not apply for other purposes, such as determining adjusted basis. Thus, for example, the adjusted basis of a partner in a partnership interest is not affected by section 465.

(a) *In general.* In any taxable year, there are two ways in which deductions allocable to an activity to which section 465 applies will be allowable under section 465. First, deductions allocable to an activity and otherwise allowable will be allowable in a taxable year to the extent of income received or accrued from the activity in that taxable year. See the example at § 1.465–11(c)(2). Thus, to the extent there is income from the activity in a taxable year, deductions allocable to that activity will be allowable without regard to the amount at risk. Second, losses from the activity (that is, the excess of deductions allocable to the activity over the income received or accrued from the activity) will be allowable to the extent the taxpayer is at risk with respect to that activity at the close of the taxable year. See the example at § 1.465–11(a)(2). Also see §§ 1.465–11 through 1.465–13 for the definition of loss.

(b) *Carryover of loss.* A loss which is disallowed by reason of section 465 (a) shall be treated as a deduction for the succeeding taxable year with respect to the same activity to which it is allocable. In the succeeding taxable year there will again be two ways for the deduction to be allowable. There is no limit to the number of years to which a taxpayer may carry over a loss disallowed solely by reason of section 465(a).

(a) *Loss deductions.* The amount of loss which is allowed for a taxable year cannot reduce a taxpayer's amount at risk below zero. Otherwise allowable losses for a taxable year which exceed a taxpayer's amount at risk shall be treated in accordance with § 1.465–2.

(b) *Negative at risk.* A taxpayer's amount at risk may be reduced below zero. For example, if a taxpayer's amount at risk in an activity is $100 and if $120 is distributed to the taxpayer from the activity, (or if a $120 recourse loan is converted to nonrecourse), the taxpayer's amount at risk is reduced to negative $20. In that event, for the taxpayer to restore the amount the taxpayer is at risk in the activity to zero, the amount at risk must be increased by $20. Thus, in such a case if in the succeeding taxable year the taxpayer incurs a loss described in section 465(d) of $40, the amount at risk must be increased by $60 ($40 + $20) in order for the full $40 to be allowed under section 465.

(c) *Recapture of certain loss deductions.* For taxable years beginning after December 31, 1978 see section 465(e) for rules relating to the recapture of certain loss deductions.

(a) *General rule.* If a taxpayer engages in a pattern of conduct which is not within normal commercial practice or has the effect of avoiding the provisions of section 465, the taxpayer's amount at risk may be adjusted to reflect more accurately the amount which is actually at risk. For example, increases in the amount at risk occurring toward the close of a taxable year which have the effect of increasing the amount of losses which will be allowed to the taxpayer under section 465 for the taxable year will be examined closely. If, considering all the facts and circumstances, it appears that the event which increases the amount at risk at the close of the taxable year will be accompanied by an event which decreases the amount at risk after the close of the taxable year, these amounts will be disregarded in determining the amount at risk unless the taxpayer can establish—

(1) The existence of a valid business purpose for increasing and then decreasing the amount at risk; and

(2) That the increases and decreases are not a device for avoiding section 465.

(b) *Facts and circumstances.* The facts and circumstances to be considered include—

(1) The length of time between the increase and decrease in the amount at risk;

(2) The nature of the activity and deviations from normal business practice in the conduct of that activity;

(3) The use of those amounts which increased the amount at risk toward the close of the taxable year;

(4) Contractual arrangements between parties to the activity; and

(5) The occurance of unanticipated events which make the decrease in the amount at risk necessary.

§ 1.465–5 General rules; recourse liabilities which become nonrecourse upon the occurrence of an event.

In the case of liabilites which are recourse for a period of time and then after the occurrence of an event or lapse of a period of time become nonrecourse, a taxpayer shall be considered at risk during the period of recourse liability if—

(a) On the basis of all the facts and circumstances, the reasons for entering into such a borrowing arrangement are primarily business motivated and not primarily related to Federal income tax consequences; and

(b) Such a borrowing arrangment is consistent with the normal commercial practice of financing the activity for which the money is being borrowed.

§ 1.465–6 General rules; amounts protected against loss.

(a) *In general.* Notwithstanding any other provision in any regulation under section 465, assets of a taxpayer (including money) contributed to an activity shall not be treated as increasing the taxpayer's amount at risk to the extent the taxpayer is protected against loss of such assets. In addition, amounts borrowed by a taxpayer shall not be considered at risk to the extent the taxpayer is protected against loss of the borrowed amount. Similarly, such amounts shall not be considered at risk if the taxpayer is protected against loss of the property pledged as security and the taxpayer is not personally liable for repayment.

(b) *Contributions from other partners.* A partner shall not be at risk with respect to any partnership liability to the extent the partner would be entitled to contributions from other partners if the partner were called upon to pay the partnership's creditor, because to that extent the partner is protected against loss. See § 1.465–24(a)(2)(ii) for an example relating to the treatment of contributions by partners.

(c) *Contingent liabilities.* If a taxpayer is liable for repayment of an amount borrowed only upon the occurance of a contingency, the taxpayer shall not be considered at risk with respect to such amount if the likelihood of the contingency occurring is such that the taxpayer is effectively protected against loss. Conversely, the taxpayer will be considered at risk if the likelihood of the contingency occurring is such that the taxpayer is not effectively protected against loss, or if the protection against loss does not cover all likely possibilities. For example, a taxpayer who obtains casualty insurance or insurance protection against tort liability will not ordinarily be considered "not at risk" solely because of such hazard insurance protection.

(d) *Guarantors.* if a taxpayer guarantees repayment of an amount borrowed by another person (primary obligor) for use in an activity, the guarantee shall not increase the taxpayer's amount at risk. If the taxpayer repays to the creditor the amount borrowed by the primary obligor, the taxpayer's amount at risk shall be increased at such time as the taxpayer has no remaining legal rights against the primary obligor.

(e) *Examples.* The provisions of this section may be illustrated by the following examples:

Example (1). A, an individual, borrows $6,000 from a bank for use in an activity described in section 465(c)(1). A is not personally liable for repayment of the loan but instead pledges as security assets not used in the activity with a net fair market value of $6,000.

However B, a third party, guarantees A that A's entire loss from the activity will be repaid to A by B. Since A is protected against loss on the loan, A's amount at risk is not increased as a result of the entire transaction.

Example (2). Assume the same facts as in example (1) except that B, instead of guaranteeing A's entire loss from the activity, guarantees A against loss of A's security in excess of $2,000. Accordingly, A is considered as having pledged as security assets with a net fair market value of $2,000. Under § 1.465–25(a)(1), A's amount at risk is increased by $2,000.

Example (3). C, an individual, is engaged in the activity of farming. C borrows $10,000 for use on the farm from an unrelated third party. As security C pledges future crops. Under the general terms of the loan agreement C is not personally liable for repayment of the $10,000. There is, however, one exception to this general provision. C will be personally liable if the crops are destroyed as the result of flooding. While drought is a constant concern for farmers in the area, flooding is not. Accordingly, although C is personally liable in the event of flooding, C's amount at risk will not be increased unless flooding actually occurs and destroys the crops, because the likelihood of flooding is such that C is effectively protected against loss. If the contingency does occur, C's amount at risk is increased at the end of the year in which it occurs.

Example (4). D, an individual calendar year taxpayer, is engaged in the activity of producing motion picture films. In 1979 D borrows $100,000 for use in the activity from E, the promoter. D is personally liable for repayment of the loan. E has meither a capital interset in the activity nor an interest in the net profits of the activity. Therefore, E is not considered a person with an interest in the activity other than that of a creditor. See § 1.465–8(b). However, E agrees to protect D against loss of up to the first $40,000 of losses from the activity. Thus, under the agreement D will not bear the economic burden of any loss until the total losses exceed $40,000. All of the losses in excess of $40,000 will be borne by D. As a result of this protection against-loss agreement, the $100,000 borrowed for use in the activity will increase D's amount at risk by $60,000. At the close of 1979, D's losses from the activity amount to $70,000. However, because D's amount at risk is only $60,000, D will only be permitted to deduct $60,000. The remaining $10,000 of deductions shall be treated in accordance with § 1.465–2(b).

§ 1.465–7 General rules; amounts loaned to the activity by the taxpayer.

(a) *Partners.* The amount at risk in an activity of a partner who lends the partnership money for use in the activity shall be increased by the amount by which that partner's basis in the partnership is increased under § 1.752–1(e) due to the incurrence by the partnership of that liability. The amount at risk of any other partners shall not be increased as a result of the loan.

(b) *Shareholders of electing small business corporations.* For rules relating to amounts loaned by a shareholder to an electing small business corporation, see § 1.465–10(c).

(c) *Special rules.* For special rules relating to amounts borrowed from persons with an interest in the activity other than that of a creditor and amounts borrowed from persons with a special relationship to the taxpayer, see section 465(b)(3) and §§ 1.465–8 and 1.465–20.

§ 1.465–8 General rules; interest other than that of a creditor.

(a) *In general.* Section 465(b)(3)(A) provides that amounts borrowed with respect to an activity will not increase the borrower's amount at risk in the activity if the lender has an interest in the activity other than that of a creditor. This rule applies even if the borrower is personally liable for the repayment of the loan or if the loan is secured by property which is not used in the activity. For additional rules relating to the treatment of amounts borrowed from a person with an interest in the activity other than that of a creditor, see § 1.465–20.

(b) *Loans for which the borrower is personally liable for repayment*—(1) *General rule.* If a borrower is personally liable for the repayment of a loan for use in an activity, the lender shall be considered a person with an interest in the activity other than that of a creditor only if the lender has either a capital interest in the activity or an interest in the net profits of the activity.

(2) *Capital interest.* For the purposes of this section a capital interest in an activity means an interest in the assets of the activity which is distributable to the owner of the capital interest upon the liquidation of the activity. The partners of a partnership and the shareholders of a corporation described in section 1371 (b) are considered to have capital interests in the activities conducted by the partnership or corporation.

(3) *Interest in net profits.* For the purposes of this section it is not necessary for a person to have any incidents of ownership in the activity in order to have an interest in the net profits of the activity. For example, an employee or independent contractor any part of whose compensation is determined with reference to the net profits of the activity will be considered to have an interest in the net profits of the activity.

(4) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). A, the owner of a herd of cattle sells the herd to partnership BCD. BCD pays A $10,000 in cash and executes a note for $30,000 payable to A. The three partners, B, C, and D, each assumes personal liability for repayment of the amount owed A. In addition, BCD enters into an agreement with A under which A is to take care of the cattle for BCD in return for compensation equal to 6 percent of BCD's net profits from the activity. Because A has an interest in the net profits of BCD's farming activity, A is considered to have an interest in the activity other than that of a creditor. Accordingly, amounts payable to A for use in that activity do not increase the partners amount at risk even though the partners assume personal liability for repayment.

Example (2). Assume the same facts as in example (1) except that instead of receiving compensation equal to 6 percent of BCD's net profits from the activity, A instead receives compensation equal to 1 percent of the gross receipts from the activity. A does not have a capital interest in BCD. A's interest in the gross receipts is not considered an interest in the net profits. Because B, C, and D assumed personal liability for the amounts payable to A, and A has neither a capital interest nor an interest in the net profits of the activity, A is not considered to have an interest in the activity other than that of a creditor with respect to the $30,000 loan. Accordingly, B, C, and D are at risk for their share of the loan if the other provisions of section 465 are met.

Example (3). Assume the same facts as in example (1) except that instead of receiving compensation equal to 6 percent of BCD's net profits from the activity, a instead receives compensation equal to 6 percent of the net profit from the activity or $15,000, whichever is greater. A is considered to have an interest in the net profits from the activity and accordingly will be treated as a person with an interest in the activity other than that of a creditor.

(c) *Nonrecourse loans secured by assets with a readily ascertainable fair market value*—(1) *General rule.* This paragraph shall apply in the case of a nonrecourse loan for use in an activity where the loan is secured by property which has a readily ascertainable fair market value. In the case of such a loan the lender shall be considered a person with an interest in the activity other than that of a creditor only if the lender has either a capital interest in the activity or an interest in the net profits of the activity.

(2) *Example.* The provisions of this paragraph may be illustrated by the following example:

Example. X is an investor in an activity described in section 465(c)(1). In order to raise money for the investment, X borrows money from A, the promoter (the person who brought X together with other taxpayers for the purpose of investing in the activity). The loan is secured by stock unrelated to the activity which is listed on a national securities exchange. X's stock has a readily ascertainable fair market value. A does not have a capital interest in the activity or an interest in its net profits. Accordingly, with respect to the loan secured by X's stock, A does not have an interest in the activity other than that of a creditor.

(d) *Nonrecourse loans secured by assests without a readily ascertainable fair market value.*

(1) *General rule.* This paragraph shall apply in the case of a nonrecourse loan for use in an activity where the loan is secured by property which does not have a readily ascertainable fair market value. In the case of such a loan the lender shall be considered a person with an interest in the activity other than that of a creditor if the lender stands to receive financial gain (other than interest) from the activity or from the sale of interests in the activity. For the purposes of this section persons who stand to receive financial gain from the activity include persons who receive compensation for services rendered in connection with the organization or operation of the activity or for the sale of interests in the activity. Such a person will generally include the promoter of the activity who organizes the activity or solicits potential investors in the activity.

(2) *Example.* The provisions of this paragraph may be illustrated by the following example:

Example. A is the promoter of an activity described in section 465(c)(1). As the promoter, A organizes the activity and solicits potential investors. For these services A is paid a flat fee of $130x. This fee is paid out of the amounts contributed by the investors to the activity. X, one of the investors in the activity, borrows money from A for use in the activity. X is not personally liable for repayment to A of the amount borrowed. As security for the loan, X pledges as asset which does not have a readily ascertainable fair market value. A is considered a person with an interest in the activity other than that of a creditor with respect to this loan because the asset pledged as security does not have a readily ascertainable fair market value, X is not personally liable for repayment of the loan, and A received financial gain from the activity. Accordingly, X's amount at risk in the activity is not increased despite the fact that property was pledged as security.

§ 1.465–9 General rules; rules of construction.

(a) *Amounts protected against loss.* Section 465(b)(4) and § 1.465–6 provide special rules relating to amounts protected against loss which override the other rules contained in section 465. Where the regulations under section 465 refer to cash or property contributed to an activity and amounts borrowed for use in an activity, it may be assumed that such cash, property, or amounts are not protected against loss under section 465(b)(4) unless expressly provided otherwise.

(b) *Amounts borrowed for use in an activity.* Section 465(b)(3) and § 1.465–20 contain special rules relating to treatment of amounts borrowed from certain persons. Where the regulations under section 465 refer to amounts borrowed for use in an activity, it may be assumed that such amounts are borrowed neither from a person with an interest (other than an interest as a creditor) in the activity nor from a person who has a special relationship to the taxpayer specified within any one of the paragraphs of section 267(b), unless expressly provided otherwise.

(c) *Use of the term "activity".* For the purposes of the regulations under section 465, unless expressly provided otherwise, use of the term "activity" shall refer to an activity which is described in section 465(c)(1).

(d) *Single activity.* For the purposes of the regulations under section 465, unless otherwise stated, it is assumed that an entity conducting an activity is engaged only in that one activity.

(e) *Double counting of additions and reductions to amount at risk.* An amount, or portion of an amount (which is contributed, borrowed, etc.), can only increase or decrease a taxpayer's amount at risk one time. Thus, if a portion of an amount increases a taxpayer's amount at risk under more than one section of the regulations, that portion can increase the taxpayer's amount at risk in the activity only once.

(f) *Personal funds or personal assets.* For the purposes of the regulations under section 465, unless otherwise stated, the terms "personal funds" and "personal assets" of a taxpayer refer to funds and assets which—

(1) Are owned by the taxpayer;

(2) Are not acquired through borrowing; and

(3) Have a basis equal to their fair market value.

(g) *Foreclosure.* If a foreclosure occurs within an activity, it will be treated as a disposition of the asset which is the subject of the foreclosure. For rules relating to dispositions, see § 1.465–66.

§ 1.465–10 General rules; rules relating to subchapter S corporations and their shareholders.

(a) *In general.* In the case of electing small business corporations (as defined in section 1371 (b)) the at risk rules of section 465 apply at both the corporate level and the shareholder level. Therefore, losses from an activity can be deducted by the corporation only to the extent that the corporation is at risk in the activity. In addition, each shareholder will be allowed a loss in the activity only to the extent that the shareholder is at risk in the activity.

(b) *Determination of corporation's amount at risk*—(1) *General rule.* Except as provided in paragraph (b) (2) of this section, an electing small business corporation's amount at risk in an activity is determined in the same manner as that of any other taxpayer.

(2) *Special rule for certain borrowed amounts.* Amounts borrowed by an electing small business corporation from one or more of its shareholders may increase the corporation's amount at risk, notwithstanding the fact that the shareholders have an interest in the activity other than that of a creditor.

(c) *Determination of shareholder's amount at risk.* The amount at risk of a shareholder of an electing small business corporation (as described in section 1371 (b)) shall be adjusted to reflect any increase or decrease in the adjusted basis of any indebtedness of the corporation to the shareholder described in section 1374 (c) (2) (B).

(d) *Example.* The provisions of this section may be illustrated by the following example:

Example. A is the single shareholder in X, an electing small business corporation engaged in an activity described in section 465 (c) (1). A contributed $50,000 to X in exchange for its stock under section 351. In addition, A borrowed $40,000 for which A assumed personal liability. A then loaned the entire amount to X for use in the activity. During its taxable year, X had a net operating loss of $75,000. At the close of the taxable year (without reduction for any losses of X) A's amount at risk is $90,000 ($50,000 + $40,000). However, it is also necessary to determine X's amount at risk in the activity. X is also at risk for the $40,000 borrowed from A and expended in the activity. Therefore, X's amount at risk in the activity is $90,000 ($50,000 + $40,000). Because X's amount at risk in the activity ($90,000) exceeds the net operating loss ($75,000), the entire loss is allowed to the corporation and allocated to A. Since A's amount at risk ($90,000) also exceeds the loss ($75,000) A will be allowed the entire loss deduction.

Definition of Loss

§ 1.465–11 Definition of loss; in general.

(a) *In general*—(1) *Loss.* A taxpayer has a loss described in section 465 (d) in a taxable year in an amount equal to the excess of allowable deductions allocable to an activity over the income received or accrued from the activity by the taxpayer for the taxable year. Such loss is referred to as a section 465 (d) loss in the regulations under section 465. See § 1.465–13 for the definition of allowable deductions allocable to an activity and § 1.465–12 for a definition of income from the activity.

(2) *Example.* The application of this paragraph may be illustrated by the following example:

Example. In 1977 B, a calendar year individual, contributes $15,000 to an activity described in section 465 (c) (1). During 1977 B has income of $20,000 from the activity and has allowable deductions of $45,000 from the activity. From this $45,000 of allowable deductions, B must first take a deduction of $20,000 to reflect the income received by B from the activity in 1977. The remaining $25,000 ($45,000G1T1—$20,000) is B's section 465 (d) loss. Assuming B's amount at risk in the activity is $15,000 at the close of 1977, B is also allowed to deduct $15,000 of the $25,000 section 465 (d) loss for 1977. The remaining $10,000 ($25,000G1T1—$15,000) of the section 465 (d) loss which is not allowed as a deduction for 1977 will be treated as a deduction allocable to the activity for 1978.

(b) *Carryover loss.* For the carryover of losses disallowed by section 465, see § 1.465–2 (b)

(c) *Loss with no amount at risk*—(1) *In general.* A section 465 (d) loss is determined without regard to the amount at risk. Thus, even if the taxpayer has no amount at risk in the activity, deductions are allowable under section 465 for a taxable year to the extent there is income from the activity in that taxable year.

(2) *Example.* The provisions of this paragraph may be illustrated by the following example:

Example. Before taking into account any gain or loss during 1978, the amount that C, a calendar year taxpayer, is at risk in an activity described in section 465(c)(1) is equal to minus $20,000. During 1978 C has deductions of $10,000 allocable to the activity and income of $15,000 from the activity. Because the income from the activity exceeds the amount of allocable deductions from the activity, there is no section 465 (d) loss in 1978 to be disallowed under section 465 (a). Thus, although C has a negative amount at risk, C is permitted to take deductions in the amount of $10,000 for 1978.

§ 1.465–12 Definition of loss; income from the activity.

(a) *In general.* Income received or accrued from an activity includes gain recognized upon the disposition of the activity or an interest in the activity in accordance with § 1.465–66. For the purposes of this section and the determinations made under section 465 (d), the character of any gain is irrelevant. Thus, all short-term capital gains and long-term capital gains attributable to the activity shall be included as income from the activity. For more rules relating to income from an activity see §§ 1.465–42 through 1.465–45.

(b) *Example.* The provisions of this section may be illustrated by the following example:

Example. On February 1, 1977, A, an individual on a calendar year, purchases a piece of equipment to be used in an activity described in section 465 (c) (1) (C). A bought the equipment for $50,000, paying $5,000 from personal assets and borrowing $45,000 from a bank on a nonrecourse basis secured only by the newly purchased equipment. On February 1, 1977, A has a basis in the activity of $50,000 and an initial amount at risk of $5,000. at the close of 1977 after the application of section 465, A's basis has been reduced to $35,000, A's amount at risk has been reduced to zero, and A has a loss of $10,000 disallowed by reason of section 465 (a). In 1978, the bank forecloses on the equipment when it is still encumbered by the $45,000 loan. Assuming there were no other transactions relating to this activity, A recognizes a $10,000 gain ($45,000—$35,000) on this disposition. For purposes of section 465 (d), this $10,000 of gain is income from the activity, and the $10,000 of disallowed loss in 1977 is treated as a deduction for 1978. Since the income from the activity for 1978 ($10,000) is equal to the deductions attributable to the activity for 1978 ($10,000), there is no section

465 (d) loss for 1978. Therefore, the $10,000 of gain is included in gross income in 1978 and the $10,000 of disallowed loss is allowed as a deduction for 1978.

§ 1.465–13 Definition of loss; deductions from the activity.

(a) *General rule.* For the purposes of section 465 allowable deductions allocable to an activity are those otherwise allowable deductions incurred in a trade or business or for the production of income from the activity. For the purposes of this section—capital losses shall be treated as deductions without regard to section 1211. See § 1.465–38 for rules relating to the order in which deductions are to be allowed and § 1.465–2(b) for the treatment of loss deductions which are disallowed by section 465.

(b) *Capital gain*—(1) *In general.* For the purposes of section 465 the deduction for capital gains provided for in section 1202 shall not be treated as a deduction allocable to an activity. Therefore, the capital gain deduction described in section 1202 will not be subject to the limitations of section 465(a) and has no effect on the amount at risk.

(2) *Example.* The provision of paragraph (b)(1) of this section may be illustrated by the following example:

Example. At the close of 1976 A, an individual and a calendar year taxpayer, has $1,000 of section 465(d) losses disallowed under section 465(a) for an activity described in section 465(c)(1). Before A has any other deductions allocable to the activity, A sells the entire activity, realizing $1,900 of long term capital gain. For 1977 A is allowed a deduction of $950 under section 1202. Other than the disallowed loss of $1,000 and the section 1202 deduction, A has no other deductions. In accordance with § 1.465–66 A has received $1,900 income from the activity. Since the $950 deduction under section 1202 is not allocable to the activity, the only deduction allocable to the activity for 1977 is the $1,000 disallowed in 1976. Therefore, for 1977 $1,900 will be included in gross income, $950 is allowed as a deduction, and in addition the full disallowed loss of $1,000 is allowed as a deduction since it is not in excess of the income from the activity ($1,900).

(c) *Dual use of assets or personnel.* Proper allocation rules are necessary if assets or personnel are used either in two or more separate activities referred to in section 465(c)(2), or in one or more activities referred to in section 465(c)(2) and an activity to which section 465 does not apply. In such a case the deductions attributable to the use of these assets or personnel must be allocated between the activities on a reasonable basis.

Factors Which Increase and Decrease the Amount a Taxpayer Is at Risk in an Activity

§ 1.465–20 Treatment of amounts borrowed from certain persons and amounts protected against loss.

(a) *General rule.* Except as provided in § 1.465–10(b)(2) (relating to amounts borrowed by an electing small business corporation from its shareholders), amounts which are—

(1) Borrowed from a person with an interest in the activity other than that of a creditor,

(2) Borrowed from a person with a relationship to the taxpayer specified within any one of the paragraphs of section 267(b), or

(3) Protected against loss (whether or not borrowed),

shall be treated in the same manner as amounts borrowed for which the taxpayer has no personal liability and for which no security is pledged. See § 1.465–25. Repayments of such amounts shall be treated in a similar manner.

(b) *Interest other than that of a creditor; cross reference.* See § 1.465–8 for rules relating to who is a person with an interest in the activity other than that of a creditor.

(c) *Amounts protected against loss; cross reference.* See § 1.465–6 for rules relating to amounts protected against loss.

§ 1.465–22 Effect on amount at risk of money transactions.

(a) *Money contributed to activity.* A taxpayer's amount at risk in an activity shall be increased by the amount of personal funds the taxpayer contributes to the activity. For this purpose a contribution by a partner to a partnership conducting only one activity is a contribution to the activity. However, a partner's amount at risk shall not be increased by the amount which the partner is required under the partnership agreement to contribute until such time as the contribution is actually made. Neither shall a partner's amount at risk be increased in the case of a note payable to the partnership for which a partner is personally liable until such time as the proceeds of the note are actually devoted to the activity. See § 1.465–10 for rules relating to amounts loaned by a shareholder to an electing small business corporation. See § 1.465–7(a) for the treatment of a loan by a partner to the partnership.

(b) *Withdrawal of money from the activity.* A taxpayer's amount at risk in an activity shall be decreased by the amount of money withdrawn from the activity by or on behalf of the taxpayer. Amounts withdrawn from an activity include distributions from a partnership or an electing small business corporation (as defined in section 1371 (b)). In the case of a taxpayer who is a shareholder of an electing small business corporation (as defined in section 1371 (b)), withdrawals shall include repayments of any indebtedness of the corporation to the shareholder described in section 1374(c)(2)(B) to the extent of any decrease in the shareholder's adjusted basis of such indebtedness. For the treatment of amounts already used in an activity which are used to repay a loan, see §§ 1.465–24 (b)(2)(i) and 1.465–25(b)(2).

(c) *Effect of income and loss from activity on amount at risk*—(1) *Income.* A taxpayer's amount at risk in an activity shall be increased by an amount equal to the excess of the taxpayer's share of all items of income received or accrued from the activity during the taxable year over the taxpayer's share of allowable deductions which are allocable to the activity for the taxable year. A taxpayer's amount at risk in an activity shall also be increased by the taxpayer's share of tax-exempt receipts of the activity.

(2) *Loss.* A taxpayer's amount at risk in an activity shall be decreased by the amount of loss from the activity allowed as a deduction to the taxpayer under section 465(a). A loss shall reduce a taxpayer's amount at risk in the activity at the close of the taxable year after the taxable year for which the loss is allowable. A taxpayer's amount at risk in an activity shall be decreased by the taxpayer's share of expenses relating to the production of tax-exempt receipts of the activity which are not deductible in determining taxable income from the activity.

(3) *Cross references.* For the definition of income from the activity, see § 1.465–12. For definition of loss from the activity, see section 465(d) and § 1.465–11. For the timing of increases and decreases to the amount at risk, see § 1.465–39.

(d) *Payment to seller.* Payment by a purchaser to the seller for an interest in an activity shall be treated by the purchaser as if the payment to the seller were a contribution to the activity. For rules relating to the contribution of borrowed amounts see §§ 1.465–20, 1.465–24, and 1.465–25.

§ 1.465–23 Effect on amount at risk of property transactions.

(a) *Contributions of property*—(1) *Contribution of unencumbered property.* When a taxpayer contributes unencumbered property to an activity,

the taxpayer's amount at risk in the activity shall be increased by the adjusted basis of the contributed property. However, see §§ 1.465–20, 1.465–24, and 1.465–25 for rules relating to the contribution to the activity of property that has been purchased with borrowed funds.

(2) *Contribution of encumbered property.* (i) Except as may otherwise result due to the application of § 1.465–20, when a taxpayer contributes to an activity property that is subject only to liabilities for which the taxpayer is personally liable for repayment, the taxpayer's amount at risk in the activity shall be increased by the adjusted basis of the contributed property.

(ii) Except as may otherwise result due to the application of § 1.465–20, when a taxpayer contributes to an activity property that is subject to a liability for which the taxpayer is not personally liable for repayment, the taxpayer's amount at risk is increased by the adjusted basis in the property and is decreased by the amount of encumbrances to which the property is subject which would not have increased the taxpayer's amount at risk if incurred for use in the activity. If after contribution of the property to the activity such an encumbrance is reduced, it shall be treated as the repayment of a loan used in the activity for which the taxpayer is not personally liable and for which there is no property used outside the activity pledged as security. See § 1.465–25 (b) (2) (i).

If the basis of such property is decreased (for example due to depreciation) prior to contribution to the activity, the portion of the basis consisting of amounts which would have increased the taxpayer's amount at risk if contributed directly to the activity will be decreased first.

(iii) The provisions of this paragraph may be illustrated by the following examples.

Example (1). In 1976 A, a calendar year individual taxpayer, purchases an asset for $5,000 financed in part by a $3,000 nonrecourse loan secured only by the asset and in part by $2,000 of cash from personal funds. Thereafter, in 1976 A contributes the asset to an activity before any of the nonrecourse debt has been repaid. Under § 1.465–23 (a) (2) (ii), A's amount at risk in the activity will be increased to the extent the taxpayer's adjusted basis in the asset consists of amounts which would have increased the taxpayer's amount at risk if contributed directly to the activity. In this instance the $3,000 nonrecourse loan is secured by an asset used in the activity. Because these loan proceeds would not increase the amount at risk if contributed directly to the activity, they will not increase the amount at risk in this case. However, the $2,000 of personal funds used for part payment of the asset would have increased A's amount at risk in the activity by $2,000 if contributed directly to the activity. Consequently, A's amount at risk in the activity is increased by $2,000 as a result of the contribution of the asset to the activity.

Example (2). In 1976 B, a calendary year individual taxpayer, purchases an asset for $5,000 financed in part by a $3,000 nonrecourse loan secured only by the asset and in part by $2,000 of cash from personal funds. B uses the asset in an activity to which section 465 does not apply and takes $1,000 of depreciation. Thereafter, B contributes the asset to an activity described in section 465 (c) (1). None of the nonrecourse debt had been repaid at the time of the contribution. Under § 1.465–23(a) (2) (ii) the $1,000 of depreciation will be deducted first from the portion of the basis that consists of amounts which would have increased the taxpayer's amount at risk in the activity if contributed directly to the activity. This means that at the time of contribution to the activity the asset has an adjusted basis of $4,000, consisting in part of a $3,000 nonrecourse loan and in part of $1,000 of personal funds which would have increased B's amount at risk in the activity if contributed directly to the activity. Consequently, B's amount at risk in the activity is increased by $1,000 as a result of the contribution of the asset to the activity.

(b) *Adjusted basis.* (1) For the purpose of this section the adjusted basis is that adjusted basis which would have been used in determining the amount of loss if the property were sold immediately after being contributed to the activity.

(2) The provisions of this paragraph may be illustrated by the following examples:

Example (1). In 1972 A, an individual calendar year taxpayer, purchases a car for $5,000 using person assets to pay the seller. From 1972 through 1975 the car is used solely for A's personal nonbusiness needs. On January 1, 1976, A converts the use of the car and begins using the car solely for business purposes. On January 1, 1976, the fair market value of the car is $2,400. For 1976 A is allowed a deduction of $600 for depreciation of the car. On January 1, 1977, A contributes the car to an activity described in section 465 (c) (1). If on January 1, 1977, the car had been sold the allowable loss would have been the excess (if any) of $1,800 ($2,400—$600) over the amount realized on the sale (see § 1.165–7 (a) (5)). As a result of contributing the car, A's amount at risk in the activity is increased by $1,800.

Example (2). Assume the same facts as in example (1) except that A contributes the car to the activity described in section 465 (c) (1) on January 1, 1976. On that date the car is converted from personal use to use in a trade or business or for the production of income. If the car were to be sold thereafter, the loss would be determined with reference to an adjusted basis of $2,400. Accordingly, A's amount at risk is increased by $2,400.

(c) *Distribution of property.* A taxpayer's amount at risk in an activity shall be decreased by—

(1) The adjusted basis in the hands of the taxpayer of property (other than money) which is withdrawn by or on behalf of the taxpayer from the activity; less

(2) The amount of liabilities to which the property is subject to for which the taxpayer is not personally liable.

If a taxpayer is distributed property described in this paragraph, repayment of the liability by the taxpayer after the distribution shall not increase the taxpayer's amount at risk.

(d) *Use of property as security for a nonrecourse loan.* For rules relating to the treatment of a taxpayer's amount at risk when the taxpayer pledges property as security for a nonrecourse loan, see § 1.465–25.

(e) *Contribution of property previously serving as security for a nonrecourse loan.* For rules relating to the treatment of a taxpayer's amount at risk when the taxpayer contributes to an activity property that had served as security for a nonrecourse loan used in the activity, see § 1.465–25(a)(3).

§ 1.465–24 Effect on amount at risk of loans for which borrower is personally liable for repayment.

(a) *Creation of loan*—(1) *General rule.* A taxpayer's amount at risk in an activity is increased by the amount of any liability incurred in the conduct of an activity for use in the activity to the extent the taxpayer is personally liable for repayment of the liability.

(2) *Partnerships.* (i) When a partnership incurs a liability in the conduct of an activity and under state law members of the partnership may be held personally liable for repayment of the liability, each partner's amount at risk is increased to the extent the partner is not protected against loss. To the extent the partner is protected against loss (such as through a right of contribution), the liability shall be treated in the same manner as amounts borrowed for which the taxpayer has no personal liability and for which no security is pledged. See § 1.465–25.

(ii) The application of this paragraph may be illustrated by the following example:

Example. A and B are equal general partners in partnership AB, which is engaged solely in an activity described in section 465(c)(1). AB borrows $25,000 from a bank to purchase equipment to be used in the activity. In addition to giving the bank a security interest in the newly purchased equipment, A and B each assumes personal liability for the loan. Although either A or B

could be called upon by the bank to repay the entire $25,000, in such instance the partner who paid would be entitled to $12,500 from the other partner. Thus, although each is personally liable for $25,000, each is protected against loss in excess of $12,500. Accordingly, the loan increases the amount each is at risk with respect to the activity by $12,500.

(3) *Small business corporations.* The amount at risk of a shareholder of an electing small business corporation (as defined in section 1371(b)) shall not be increased by indebtedness incurred by the corporation from persons other than that shareholder. For treatment of indebtedness described in section 1374(c)(2)(B) (relating to loans by shareholders to electing small business corporations), see § 1.465–10(c).

(b) *Repayment of loan*—(1) *General rule.* (i) Except as otherwise provided in this paragraph, the repayment by the taxpayer of a liability for which the taxpayer is personally liable does not affect the taxpayer's amount at risk. For this purpose, whether a taxpayer is considered personally liable for repayment of a liability is determined at the time of repayment.

(ii) The provisions of paragraph (b)(1) of this section, may be illustrated by the following examples:

Example (1). In 1977 A, an individual calendar year taxpayer, borrows $10,000 from a bank, assuming personal liability for repayment, for use in partnership AB, which is engaged solely in an activity. At the close of 1977 A's amount at risk is $10,000. In December of 1978 A takes $3,000 of personal funds and uses these funds to repay the bank. If no other factors occur during the year to affect A's amount at risk in the activity, A's amount at risk will be $10,000 at the close of 1978 because the repayment with personal assets of a liability for which A was personally liable does not affect A's amount at risk in the activity.

Example (2). In 1977 B, a calendar year taxpayer, borrows $5,000 for use in an activity. B is personally liable for the repayment of the loan. At the end of 1977 B's amount at risk in the activity is $5,000. In 1978 when the amount of the loan is still $5,000, the loan obligation is purchased by C, a person who has an interest (other than interest as a creditor) in the activity. As a result of C's interest in the activity the loan is not treated in the same manner as a loan for which B is personally liable for repayment as long as C is the holder of the note. See § 1.465–20. Accordingly, B's amount at risk in the activity is decreased by $5,000, and repayments on the note made by B to C are not governed by this section. See § 1.465–5 for the effect on the amount at risk of loans which convert from recourse to nonrecourse. See § 1.465–25 for the effect on the amount at risk of repayments of a loan for which the borrower is not personally liable for repayment.

(2) *Repayments using amounts which would not increase the taxpayer's amount at risk if contributed to the activity.* (i) If a taxpayer repays a loan for which the taxpayer is personally liable with assets already in the activity, the taxpayer's amount at risk in the activity will be decreased by the adjusted basis (as defined in § 1.465–23(b)(1)) of such assets. If the taxpayer repays a loan for which the taxpayer is personally liable with funds which, if contributed to the activity, would not increase the taxpayer's amount at risk, the taxpayer's amount at risk shall be decreased to the extent of the repayment. Thus, for example, if a taxpayer repays a loan for which the taxpayer is personally liable with funds received from a nonrecourse loan secured by property used in the activity, the taxpayer's amount at risk shall be decreased to the extent of the repayment. The payment by a partnership of a liability which, pursuant to paragraph (a)(2) of this section, is deemed to be incurred by a partner in the conduct of the activity shall decrease the partner's amount at risk in the activity to the extent such partner's basis in the partnership is decreased due to the payment of the liability by the partnership.

(ii) The provisions of paragraph (b)(2) of this section may be illustrated by the following example:

Example. In 1977 A, an individual calendar year taxpayer, borrows $10,000 from a bank, assuming personal liability for repayment, for use in partnership AB, which is engaged solely in an activity described in section 465(c)(1). At the close of 1977 A's amount at risk in the activity is $10,000. In December of 1978 A borrows $3,000 for which A is not personally liable and which is secured by property used in the activity, and uses the funds to pay the bank. If no other factors occur during the year to affect A's amount at risk in the activity, A's amount at risk will be decreased by the amount of the repayment because A used funds for the repayment which would not have increased A's amount at risk had they been contributed to the activity. Therefore, at the close of 1978 A's amount at risk is $7,000. The result would be the same if the $3,000 used for the repayment of the loan were withdrawn from AB. See § 1.465–22.

(3) *Repayment of a loan for which others are personally liable.* Where more than one person is personally liable for repayment of a loan, repayment of that portion of the loan for which the taxpayer is personally liable and not protected against loss shall be treated in accordance with § 1.465–24(b). Repayment of that portion of the loan for which the taxpayer is protected against loss (such as through a right of contribution) shall be treated as a repayment of a loan for which the taxpayer has no personal liability and for which no security is pledged. See § 1.465–25. Also, see the example at paragraph (a)(2) of this section.

§ 1.465–25 Effect on amount at risk of loan for which borrower is not personally liable for repayment.

(a) *Nonrecourse loan for which taxpayer pledges property not used in the activity.*—(1) *In general.* A taxpayer's amount at risk in an activity is increased by amounts borrowed for use in the activity when the taxpayer is not personally liable for repayment of the loan if the taxpayer pledges as security property not used in the activity. However, the amount of the increase shall not exceed the net fair market value (as defined in paragraph (a)(4) of this section) of the pledged property. If the net fair market value of the security changes (in accordance with paragraph (a)(4) of this section) after the loan is made, a redetermination shall be made of the taxpayer's amount at risk in the activity using the new net fair market value.

(2) *Repayment of loan.* To the extent a taxpayer's amount at risk is increased by a portion of a liability described in paragraph (a)(1) of this section, the taxpayer's repayment of that portion of the liability will be treated in the same manner as the repayment of a loan for which the taxpayer is personally liable in accordance with § 1.465–24(b). However, to the extent the amount of the liability exceeds the net fair market value of property not used in the activity which secures the loan, repayment of that portion of the liability is considered as the repayment of a loan for which the taxpayer is not personally liable and has not pledged property used outside the activity in accordance with paragraph (b)(2)(i) of this section. Repayments of the loan are considered to be made first in respect of that portion of the loan which exceeds the net fair market value of property not used in the activity which secures the loan. If a portion of an amount borrowed is used in the activity and a portion is used outside the activity, repayment will be considered made first in respect of the portion used outside the activity.

(3) *Contribution of security to activity.* If property which is pledged as security for an amount borrowed for use in an activity is subsequently contributed to the activity, the amount at risk shall be redetermined in accordance with this section as though the net fair market value of the security had been reduced to zero. This will reduce the amount at

risk in accordance with § 1.465–25(a)(1). Furthermore, the contribution of the property to the activity will be treated as a contribution of unencumbered property and will increase the amount at risk in accordance with § 1.465–23(a)(1).

(4) *Net fair market value; changes in net fair market value.* The net fair market value of property is the amount by which the property's fair market value at the date it is pledged as security exceeds the total amount of superior liens to which it is subject. Subsequent changes in the fair market value of the property are not taken into account for purposes of determining net fair market value. However, to the extent the amount of superior liens changes during a taxable year the net fair market value shall be adjusted at the close of the taxable year. Thus, the net fair market value of property will be reduced to the extent of increases in superior liens to which the property is subject and will be increased to the extent of decreases in superior liens of which the property is relieved. For purposes of determining the effect of superior liens on the calculations described in this paragraph, it is not relevant that other property is also subject to any such superior lien. If a portion of an amount borrowed which is secured by property described in this section is not contributed to an activity, that portion shall be treated as a superior lien on such property, thus reducing its net fair market value in accordance with § 1.465–25(a)(4).

(b) *Nonrecourse loan for which a taxpayer pledges assets used in the activity*—(1) *In general.* (i) *Borrowed funds used in the activity.* A taxpayer's amount at risk is unaffected by amounts borrowed for use in an activity where the taxpayer is not personally liable for repayment of the loan and has not pledged as security property used outside the activity. Thus, a taxpayer's amount at risk in a partnership activity is unaffected to the extent the taxpayer borrows for use in the partnership money secured only by the partnership interest. Where a partnership borrows amounts for use in the activity pledging only property used in the activity for repayment of the loan, and neither the partnership nor any partner is personally liable for repayment of the loan, the loan shall be treated by each partner as a loan which is described in this paragraph.

(ii) *Borrowed funds used outside the activity.* A taxpayer's amount at risk is affected by amounts borrowed for use outside the activity where the taxpayer is not personally liable for repayment of the loan and has pledged as security only property used in the activity. In such a case, the taxpayer's amount at risk in the activity is decreased by an amount equal to the amount borrowed for use outside the activity. This result is unchanged if the only security for the loan is the taxpayer's interest in the activity. If the taxpayer has pledged as security property, some of which is used in the activity (including for this purpose the taxpayer's interest in the activity) and some of which is not, the taxpayer's amount at risk in the activity shall be reduced by the excess, if any, of amounts borrowed for use outside the activity over the net fair market value of the security not used in the activity.

(2) *Repayment of loan*—(i) *Borrowed funds used in the activity.* Where a taxpayer's amount at risk was not increased as a result of the rule contained in paragraph (b)(1)(i) of this section, a subsequent repayment of the loan by the taxpayer will increase the taxpayer's amount at risk to the extent of the repayment. However, if the amount used to repay the loan would not have increased the taxpayer's amount at risk in the activity if the amount had been contributed to the activity, the repayment will not increase the taxpayer's amount at risk. Thus, for example, if a nonrecourse loan (the proceeds of which were used in the activity) which did not increase the taxpayer's amount at risk is repaid with money borrowed by the taxpayer with a second nonrecourse loan secured only by property used in the activity, the taxpayer's amount at risk will not be increased by the repayment. When a liability described in paragraph (b)(1)(i) of this section is repaid with assets already used in the activity, the taxpayer's amount at risk will not be affected as a result of the repayment. Therefore, when a partnership incurs such a liability and thereafter repays it with assets used in the activity, no partner's amount at risk is affected upon the incurrence of the liability or upon repayment.

(ii) *Borrowed funds not used in the activity.* A taxpayer's amount at risk is affected by the repayment by the taxpayer of amounts borrowed for use outside the activity where the taxpayer is not personally liable for repayment of the loan and has pledged as security only property used in the activity (including for this purpose the taxpayer's interest in the activity). In such a case the taxpayer's amount at risk in the activity is increased by the amount of the repayment. If the taxpayer has pledged as security property, some of which is used in the activity and some of which is not, upon repayment the taxpayer's amount at risk in the activity will be increased by the lesser of the amount of the repayment made by the taxpayer or the amount (if any) by which the outstanding liability (immediately before repayment) exceeds the net fair market value of the property not used in the activity which is pledged as security. However, if the amount used to repay the loan would not have increased the taxpayer's amount at risk in the activity if the amount had been contributed to the activity, the repayment will not increase the amount at risk. Thus, if the repayment is made using assets already in the activity, the repayment will not increase the taxpayer's amount at risk.

(3) *Examples.* The provisions of this section may be illustrated by the following examples:

Example (1). (i) In 1977 A, a calendar year individual, pledges A's house (which is not used in the activity) as well as an asset used in the activity as security to borrow $8,000 on a nonrecourse basis to be used in an activity. On the day the house is pledged as security, its fair market value is $60,000, and it is subject to a superior lien of $54,000. If the amount of the superior lien is not reduced during the balance of the year, at the close of 1977 the net fair market value of the house is $6,000 ($60,000 − $54,000), since the net fair market value of the security ($6,000) is less than the amount borrowed ($8,000), the increase in A's amount at risk is limited to $6,000.

(ii) In 1978 A reduces the amount of the superior lien on the house to $53,000. Accordingly, the house's net fair market value at the close of 1978 is $7,000 ($60,000—$53,000). In accordance with paragraph (a)(4) of this section, a redetermination of the amount at risk is made using the new net fair market value. Using the new value, the amount borrowed ($8,000) is still more than the net fair market value ($7,000). Therefore, the new net fair market value would be used to measure the increase in A's amount at risk in the activity. The new amount determined under paragraph (a)(4) of this section ($7,000) exceeds the earlier amount determined under this section ($6,000) by $1,000. Thus, A's amount at risk is increased by $1,000.

(iii) In 1979 the fair market value of A's house increases to $75,000. On December 31, 1979, A obtains a $10,000 second mortgage on the house. The second mortgage is made superior to the lien for the $8,000 loan made in 1977. At the close of 1979 the original lien on the house has been reduced to $52,000 and the second mortgage is $10,000. Since changes in the fair market value of security are ignored for purposes of determining net fair market value, the net fair market value of the house at the end of 1979 is determined by comparing its fair market value at the time the $8,000 was borrowed in 1977, $60,000, with the amount of superior liens outstanding at the end of 1979, $62,000 ($52,000 + $10,000). Since the fair market value of the house as so determined is less than the total

of the superior liens to which the house is subject at the end of 1979, the net fair market value of the house at that time is 0. In accordance with paragraph (a)(4) of this section a redetermination of the amount at risk is made using the new net fair market value. Using the new value the amount borrowed ($8,000) is still more than the net fair market value (0). Therefore, the new net fair market value would be used to measure the increase in A's amount at risk in the activity. The new amount determined under paragraph (a)(4) of this section (0) is less than the earlier amount determined under this section ($7,000) by $7,000. Thus, A's amount at risk is decreased by $7,000.

Example (2). (i) In 1977 B, a calendar year individual, pledges shares of stock that are not used in the activity as security to borrow $20,000 on a nonrecourse basis to be used in an activity. On the day the shares are pledged, they are worth $40,000 and are not subject to any superior liens. At the close of 1977 the fair market value of the shares is $30,000. Nevertheless, at the close of 1977 the net fair market value of the shares is $40,000, because changes in the fair market value of security are ignored for purposes of determining net fair market value. Since the net fair market value of the shares ($40,000) is greater than the amount borrowed ($20,000), B's amount at risk in the activity is increased by $20,000.

(ii) In 1978, B, using personal assets, repays $4,000 of the loan secured by the shares of stock. In accordance with paragraph (a)(2) of this section, repayments of such a loan are treated like repayments of a loan for which the taxpayer is personally liable. Thus, B's amount at risk is not affected by the repayment.

(iii) In 1979 the shares of stock are made subject to a $30,000 lien superior to the previous lien. At the close of 1979 the net fair market value of the shares of stock is $10,000 ($40,000 fair market value minus $30,000 superior lien). Accordingly, a redetermination must be made of B's amount at risk. Since the new net fair market value of the shares of stock ($10,000) is less than the amount of the loan outstanding ($16,000), the net fair market value is used to measure any change in A's amount at risk. The new amount determined under this section ($10,000) is less than the earlier amount determined under this section ($16,000) by $6,000. Thus, in accordance with paragraph (a) of this section B's amount at risk is decreased under this section by $6,000.

(iv) In 1980 B repays $7,000 of the loan secured by the shares of stock. In accordance with paragraph (a)(2) of this section the repayment is first deemed to be made in respect of that portion of the loan, $6,000, which exceeds the net fair market value of property not used in the activity which secures the loan. Pursuant to paragraph (b)(2)(i) of this section the repayment will result in a corresponding increase of $6,000 in the amount at risk. The remaining $1,000 repayment is treated under paragraph (a)(2) of this section in the same manner as the repayment of a loan for which the taxpayer is personally liable. Repayment of such a loan results in no change in the amount at risk. Accordingly, as a result of the $7,000 repayment, B's amount at risk is increased by $6,000.

Example (3). (i) In 1977 C, a calendar year individual, purchases an asset for $10,000 for use in an activity. C pays for the asset with $2,000 of personal funds and a purchase money mortgage of $8,000 on which C is not personally liable. At the end of 1977 C still owes $8,000 on the purchase money mortgage. As a result of this transaction C's amount at risk in the activity is increased by $2,000.

(ii) In 1978 C repays $3,000 of the purchase money mortgage, $2,000 with personal funds from outside the activity and $1,000 with funds from within the activity. Since the $2,000 of funds from outside the activity can increase C's amount at risk if contributed to the activity, their use to repay the loan will increase C's amount at risk by $2,000. The additional $1,000 of repayment is from funds already within the activity. Accordingly, the use of those funds to repay the loan does not increase C's amount at risk in the activity.

Example (4). (i) In 1977 D, a calendar year individual, borrows $5,000 for use in a farming activity described in section 465(c)(1)(B). D is personally liable on the loan. At the end of 1977 the $5,000 loan remains outstanding. Accordingly, D's amount at risk in the activity is increased by $5,000.

(ii) In 1979 D requests the lender to convert the $5,000 loan into a nonrecourse loan secured by assets in the farming activity. The lender agrees to the request. Assuming that § 1.465–5 applies and the recourse loan increases D's amount at risk prior to conversion, the conversion of the loan from recourse to nonrecourse reduces D's amount at risk by $5,000 at the close of 1979.

(iii) In 1980 D repays $1,000 of the $5,000 loan with personal funds from outside the activity and $2,000 with money from the activity. The repayment of $3,000 of the loan increases D's amount at risk to the extent a contribution of amounts used to repay the loan would have increased the taxpayer's amount at risk in the activity. Since $2,000 from the activity was used to repay the loan, D's amount at risk in the activity is not increased to the extent of that $2,000. However, the $1,000 from outside the activity would have increased the amount at risk if it were contributed to the activity. Therefore, at the end of 1980 D's amount at risk will be increased by $1,000.

Example (5). E and F form partnership EF to engage in an activity described in section 465(c)(1). Partnership EF borrows $20,000 secured by a purchase money mortgage for which neither of the partners is personally liable and uses the funds to purchase an asset for use in the activity. This transaction does not increase the amount E and F are at risk in the activity. Thereafter, EF repays $5,000 of the purchase money mortgage with funds from the activity. Pursuant to paragraph (c) of this section the repayment by EF has no effect on the amount E and F are at risk in the activity.

Example (6). A, an individual calendar year taxpayer, is engaged in a farming activity described in section 465(c)(1)(B). On January 6, 1978, A borrows $8,000 using machinery from the activity as security. A is not personally liable for repayment of the loan. A uses the $8,000 (along with $2,000 from personal funds) to purchase an automobile for use outside the activity. Subsequently, A pledges the automobile as security to borrow $8,000. A uses this $8,000 to purchase a truck which is contributed to the farming activity in August of 1978. Section 465(b)(2) provides that no property shall be taken into account as security if it is directly or indirectly financed by indebtedness which is secured by property used in the activity. Accordingly, if no other events affecting A's amount at risk occur in 1978, A's amount at risk in the farming activity at the close of 1978 will be the same as it was at the close of 1977.

(c) *Repayment of nonrecourse liability by a partnership.* The repayment by a partnership of a liability for which a taxpayer is not personally liable and for which that taxpayer has not pledged as security assets used outside the activity shall not affect the taxpayer's amount at risk.

§ 1.465–26 Effect of transfers by gift or at death on amount at risk; cross reference.

For rules relating to the effect on the amount at risk of transfers by gift or at death, see §§ 1.465–57 through 1.465–59.

Ordering and Timing

§ 1.465–38 Ordering rules.

(a) *In general.* In determining which items of deductions otherwise allowable are to be allowed under section 465 (a), the following ordering system shall be used:

(1) First, all capital losses shall be allowed.

(2) Second, all items of deduction entering into the computation under section 1231 shall be allowed.

(3) Third, all items of deduction to the extent they do not constitute items of tax preference under section 57 and are not described in paragraph (a) (1) or (2) of this section shall be allowed.

(4) Fourth, all items of tax preference under section 57 not described in paragraph (a) (1) or (2) of this section shall be allowed.

(b) *Retention of identity.* When treated as deductions in succeeding taxable years, deductions which are disallowed under section 465 (a) shall retain their identity according to the classifications enumerated in paragraph (a) of this section.

(c) *Special rule.* Deductions described in paragraph (a) (4) of this section (relating to tax preference items) which are disallowed by section 465 (a) shall be further subdivided according to the taxable year in which they were originally paid or accrued. When such deductions are allowed, those deductions paid or accrued in the

earliest taxable years shall be allowed first.

(d) *Examples.* The provisions of this section may be illustrated by the following examples:

Example (1). A, an individual calendar year taxpayer, is engaged in an activity described in section 465(c)(1). At the close of 1977 A is at risk $1,000 in the activity. During 1978 A had $3,000 of income from the activity and $7,500 of deductions allocated to the activity. Of the $7,500 of deductions $2,500 are of the type described in § 1.465–38(a)(3) and $5,000 are of the type described in § 1.465–38(a)(4). Assuming nothing else has occurred during 1978 to affect A's amount at risk, A will be allowed $4,000 of deductions and $3,500 of deductions will be disallowed. Since A has no deductions described in § 1.465–38(a)(1) or § 1.465–38(a)(2), the $4,000 of allowed deductions will consist of the entire $2,500 described in § 1.465–38(a)(3) and $1,500 of the $5,000 deductions described in § 1.465–38(a)(4). The $3,500 deductions disallowed will consist of deductions in § 1.465–38(a)(4).

Example (2). Assume the same facts as in example (1), and in addition during 1979 A has income from the activity of $10,000. During 1979 A incurred $14,000 of deductions of which $4,000 are described in § 1.465–38(a)(3) and $10,000 are described in § 1.465–38(a)(4). When A's current deductions are added to the deductions which were not allowed and therefore carried over from 1978, A's total deductions from the activity for 1979 are $17,500 ($14,000 + $3,500), of which $4,000 are described in § 1.465–38(a)(3) and $13,500 are described in § 1.465–38(a)(4) ($10,000 + $3,500). Of the $13,500 of deductions described in § 1.465–38(a)(4), $3,500 are from 1978 and $10,000 are from 1979. Assuming nothing occurs during 1979 to affect A's amount at risk, A will be allowed deductions from the activity in the amount of $10,000 (see § 1.465–2(a)). Since A has no deductions described in § 1.465–38(a)(1) or § 1.465–38(a)(2), the entire $10,000 of deductions will come from those deductions described in § 1.465–38(a)(3) and § 1.465–38(a)(4). Of A's $17,500 of deductions from the activity the entire $4,000 described in § 1.465–38(a)(3) will be allowed. Of the $13,500 deductions described in § 1.465–38(a)(4), $6,000 will be allowed. Pursuant to § 1.465–38(c) deductions described in § 1.465–38(a)(4) and occurring in the earliest years shall be allowed first. Accordingly, the $6,000 deductions described in § 1.465–38(a)(4) which are to be allowed shall consist of the entire $3,500 attributable to 1978 and $2,500 of the $10,000 deductions described in § 1.465–38(a)(4) attributable to 1979. The remaining $7,500 of deductions described in § 1.465–38(a)(4) and attributable to 1979 will be carried over and treated as deductions from the activity for 1980.

§ 1.465–39 Timing of increases and decreases to the amount at risk.

(a) *General rule.* Except as provided in paragraph (b) of this section, factors which increase or decrease the amount a taxpayer is at risk in a taxable year shall so increase or decrease the amount at risk before determining the amount of section 465(d) loss which is allowed for the year.

(b) *Exception.* Section 465(d) losses which are allowed as deductions for a taxable year under section 465 reduce the amount a taxpayer is at risk with respect to that activity at the close of the immediately succeeding taxable year of the taxpayer.

(c) *Procedure.* The amount a taxpayer is at risk in an activity at the close of a taxable year of the taxpayer is determined by—

(1) Reducing the amount at risk in the activity at the close of the preceding taxable year by the amount of the section 465(d) loss which was allowed as a deduction in the preceding taxable year;

(2) Increasing the amount at risk in the activity (determined after the application of paragraph (c)(1) of this section) by all factors occurring during the taxable year which increase the amount at risk; and

(3) Decreasing the amount at risk in the activity (determined after the application of paragraph (c)(2) of this section) by all factors occurring during the taxable year which decrease the amount at risk.

See § 1.465–41 for illustrations of the operation of this section.

Examples

§ 1.465–41 Examples.

The provisions of § 1.465–1 through 1.465–40 may be illustrated by the following examples:

Example (1). On January 1, 1976, A and B as equal partners form partnership AB. Both A and B, as well as partnership AB, are calendar year taxpayers. On January 1, 1976, A and B each contributes $5,000 from personal assests to AB. On August 1, 1976, AB borrows $6,000 from a bank with A and B each assuming personal liability. On December 31, 1976, AB reduces the amount outstanding on the loan to $4,500. AB has neither loss nor income for 1976. As of December 31, 1976, A's amount at risk in the activity engaged in by AB is determined as follows:

Amount at risk in activity as of Jan. 1, 1976		$0
Plus:		
Contributions		5,000
Allocable share of loan for which personal liability was assumed ($6,000 divided by 2)		3,000
		$8,000
Less:		
Allocable share of net reduction in personal liability (See §§ 1.465–24(b)(2)(i)) ($6,000 minus $4,500 divided by 2)		750
Amount at risk in activity as of Dec. 31, 1976		$7,250

Example (2). Assume the same facts as in example (1) and in addition on February 1, 1977, AB borrows $20,000 under a nonrecourse financing arrangement with the lender taking as security equipment purchased with the newly acquired funds. On May 1, 1977 AB reduces the amount outstanding on the loan on which A and B have assumed personal liability to $4,000 ($4,500G1T1×$500). On August 1, 1977 AB reduces the principal amount due on the nonrecourse loan to $19,000. On October 1, 1977 AB distributes $2,000 each to both A and B. On December 1, 1977 AB reduces the amount outstanding on the loan on which A and B have assumed personal liability to $2,500 ($4,000G1T1×$1,500). A and B are each allocated $3,000 as their distributive share of partnership income for its taxable year ending December 31, 1977. As of December 31, 1977, A's amount at risk in the activity engaged in by AB is determined as follows:

Amount at risk in activity as of 1/1/77			$7,250
Plus:			
Income from the activity			3,000
			$10,250
Less:			
Allocable share of net reduction in personal liability—5/1/77 ($500 ÷ 2)	$250		
Allocable share of net reduction in personal liability—12/1/77 ($1,500 ÷ 2)	750		
Distribution	2,000		3,000
Amount at risk in activity as of 12/31/77			$7,250

The $20,000 nonrecourse loan does not affect the amount at risk of either A or B because neither of them assumed personal liability and neither of them pledged property not used in the activity as security. Under § 1.465–25 (b) (2) the reduction in the nonrecourse liability did not reduce either partner's amount at risk, because the loan was repaid with amounts already in the activity. Under § 1.465–24 (b) (2) the reduction in personal liability did reduce the amount at risk, because the repayment was made with amounts already in the activity.

Example (3). Assume the same facts as in example (2) and in addition on March 1, 1978, A and B each contributes $1,000 to AB. On September 1, 1978 A and B each contributes $1,500 to AB and on the same date AB reduces the outstanding amount due on the loan for which A and B are personally liable to zero and also repays $500 on the loan for which A and B had not assumed personal liability. For AB's taxable year ending December 1978 A and B each has $10,500 of section 465 (d) losses. As of December 31, 1978, A's amount at risk for the activity engaged in by AB is determined as follows:

Amount at risk in activity as of 1/1/78		$7,250
Plus:		
Contribution—3/1/78		1,000
Contribution—9/1/78		1,500
		$9,750
Less:		
Allocable share of net reduction in personal liability ($2,500 ÷ 2)		1,250
Amount at risk in activity as of 12/31/78		$8,500

A was allocated $10,500 in partnership losses. Since A's amount at risk as of December 31, 1978 is only $8,500, A's loss deduction for the activity will also be so limited. Thus, A may take a loss deduction of $8,500 for 1978. This deduction will decrease A's amount at risk at the close of 1979. The $2,000 not allowed as a loss deduction for

1978 will be treated as a deduction in 1979. Under § 1.465–25(b)(2)(i) the reduction in nonrecourse liability did not reduce either partner's amount at risk, because the loan was repaid with amounts already in the activity.

Example (4). Assume the same facts as in example (3) and in addition on March 1, 1979, A and B each contributes $1,000 to AB. For AB's taxable year ending December 31, 1979, A and B are each allocated $500 as their share of partnership income (which is calculated without regard to the $2,000 loss deduction disallowed in 1978). As of December 31, 1979, A's amount at risk in the activity engaged in by AB is determined as follows:

Amount at risk in activity as of 1/1/79	$8,500
Less:	
Loss allowed in 1978	8,500
	$0
Plus:	
Contribution	1,000
Amount at risk in activity as of 12/31/79	$1,000

A had a $2,000 loss deduction which was not allowed in 1978 and is treated as a deduction for 1979. Since $500 is A's distributive share of partnership income (which is calculated without regard to such deduction), A's section 465 (d) loss for 1979 is $1,500 ($2,000–$500). Since A is at risk $1,000 as of December 31, 1979, only $1,000 is allowable as loss deduction for 1979. The remaining $500 is treated as a deduction for 1980. Therefore, of the $2,000 disallowed loss deduction for 1978 treated as a deduction for 1979, $500 is deductible by reason of A's share of partnership income, $1,000 is deductible because A was at risk $1,000, and the remaining $500 is not deductible for 1979 but is treated as a deduction allocable to the activity for 1980.

Example (5). On July 1, 1976, C, along with many other persons, forms partnership W. C is a calendar year taxpayer and partnership W is on a taxable year ending June 30. On July 1, 1976, C contributes $3,000 to W. On August 1, 1976, W borrows a sum of money for which C's allocable share of personal liability is $7,500. On October 1, 1976, W borrows a sum of money under a nonrecourse financing arrangement with respect to which C's allocable share is $10,000. On March 1, 1977, W repays a portion of the loan for which C is personally liable, thereby reducing C's personal liability to $6,000. C's allocable share of W's losses for the taxable year ending June 30, 1977, is $13,000. On September 1, 1977, C contributes unencumbered personal assets with an adjusted basis of $6,000 to W. On November 1, 1977, W repays another portion of the loan for which C is personally liable, reducing C's personal liability to $5,000. On December 1, 1977, W repays part of the nonrecourse loan thereby reducing C's allocable portion of the amount outstanding to $8,000. The amount of loss deduction which C is allowed for 1977 is determined as follows:

Amount at risk in activity as of 7/1/76 (prior to contribution)	$0
Plus:	
Contribution—7/1/76	3,000
Allocable share of loan for which personal liability was assumed	7,500
	$10,500
Less:	
Allocable share of net reduction in personal liability	1,500
Amount at risk in activity as of 6/30/77	$9,000

Although C's allocable share of W's losses for the taxable year ending June 30, 1977, is $13,000, C's allowable loss deduction is limited to the amount at risk as of the close of the partnership's taxable year. Thus, C's loss deduction for the taxable year ending December 31, 1977, is $9,000. The $4,000 not allowed as a loss deduction in 1977 will be treated as a deduction in 1978. The fact that prior to December 31, 1977, but after the close of w's taxable year on June 30, 1977, C made a contribution to W does not increase the amount of loss which C may deduct for 1977. That amount is limited to the amount C was at risk in the activity as of the close of W's taxable year.

Example (6). Assume the same facts as in example (5), and in addition for the taxable year ending June 30, 1978, C's allocable share of W's losses is $250 (which is calculated without regard to the $4,000 loss deduction carryover from 1977). On October 1, 1978, W distributes $2,000 to C. The amount of loss deduction which C is allowed for 1978 is determined as follows:

Amount at risk in activity as of 7/1/77	$9,000
Less:	
Loss allowed in 1977	9,000
	$0
Plus:	
Contribution—9/1/77	6,000
Less:	
Net reduction in personal liability 11/1/77	1,000
Amount at risk in activity as of 6/30/78	$5,000

C has $4,000 of deductions which were not allowed in 1977 as well as $250 of current loss for W's taxable year ending June 30, 1978. Since $4,250, the entire amount of section 465(d) loss ($4,000+$250), is less than the amount at risk as of the close of W's taxable year, the entire amount is allowable as a deduction for C's taxable year ending December 31, 1978. The fact that prior to December 31, 1978, but after the close of W's taxable year on June 30, 1978, W made a distribution to C does not decrease the amount of allowable loss which C may deduct in 1978 unless § 1.465–4 is found to apply.

Example (7). Assume the facts as in example (6), and in addition for W's taxable year ending June 30, 1979, C's allocable share of income is $1,000. No other events occur which affect C's amount at risk. C's amount at risk as of June 30, 1979, is determined as follows:

Amount at risk in activity as of 7/1/78	$5,000
Less:	
Loss allowed in 1978	4,250
	$750
Plus:	
Income from the activity	1,000
	$1,750
Less:	
Distribution—10/1/78	2,000
Amount at risk in activity as of 6/30/79	$(250)

For the recapture of certain losses where the amount at risk is less than zero, see section 465(e).

Activities to Which Section 465 Applies

§ 1.465–42 Activities to which section 465 applies; holding, producing, or distributing motion picture films or video tapes.

(a) *In general.* Section 465 applies to any taxpayer described in § 1.465–1(d) who is engaged in the activity of holding, producing, or distributing motion picture films or video tapes either as a trade or business or for the production of income.

(b) *Loss.* All receipts related to holding, producing, or distributing motion picture films or video tapes and all items of deduction incurred with respect to such receipts are to be taken into account in determining whether there is a section 465(d) loss.

(c) *Separate activities*—(1) *General rule.* Except in the case of a partner's interest in a partnership or a shareholder's interest in an electing small business corporation, a taxpayer's interest in each different film or video tape shall be considered a separate activity. Thus, if an individual has an interest in four different films, each film represents a separate activity to that individual and that individual has a separate section 465(d) loss and a separate amount at risk with respect to each film.

(2) *Partners and shareholders.* In the case of a partner's interest in a partnership or a shareholder's interest in an electing small business corporation, all films and video tapes in which the partnership or corporation has an interest shall be treated as one activity of the partner or shareholder. Thus, if a partnership has an interest in three different films and two different video tapes, the five films and video tapes will constitute one activity for each partner. This means that all items of income allocated to a partner from the films and video tapes shall be aggregated with all items of deductions allocated to that partner from the films and video tapes so as to result in one amount at risk and one section 465(d) loss (if any) for each partner.

(d) *Different film or video tape*—(1) *General rule.* For the purposes of paragraph (c) of this section, a different film or video tape is one—

(i) In which the finished product is viewed as a single work; and

(ii) Which is of a length such that individuals could normally be expected to view it in one sitting.

For the purposes of paragraph (c) of this section, a movie or video tape can consist of more than one reel.

(2) *Special rule.* In cases where more than one film or video tape exists as a result of applying paragraph (d)(1)(ii) of this section, each portion of the film or video tape which is intended to be viewed in a separate sitting shall be a different film or video tape.

§ 1.465–43 Activities to which section 465 applies; farming.

(a) *In general.* Section 465 applies to any taxpayer described in § 1.465–1(d) who is engaged in farming (as defined in section 464(e)) as a trade or business or for the production of income.

(b) *Loss.* All receipts related to the farming activity and all items of deduction incurred with respect to such receipts are to be taken into account in determining whether there is a section 465(d) loss.

(c) *Separate activities.* For each farm rules similar to those found in § 1.465–42(c) shall apply for purposes of determining what constitutes a separate activity.

(d) *Farm.* As used in this section, the term "farm" includes all property where the cultivation of land or the raising or harvesting of any agricultural or horticultural commodity occurs, including the raising, shearing, feeding, caring for, training, and management of animals. For purposes of the preceding sentence, trees (other than trees bearing fruit or nuts) shall not be treated as an agricultural or horticultural commodity.

(e) *Farm activity.* When a procedure for the processing of products grown or animals raised on a farm is carried on within the physical boundaries of a farm, it is necessary to determine whether such activity constitutes a farm activity. In such event, the facts and circumstances of each case must be evaluated. Generally, the most significant facts and circumstances in making this determination include—

(1) The similarity of the product as processed to the product as it is being grown or raised;

(2) The consistency with normal commercial practice of conducting the procedure within the physical boundaries of a farm; and

(3) The necessity of the procedure to obtain a marketable product.

If is determined that the processing procedure is a nonfarm activity, receipts and expenditures from the farm activity and the nonfarm activity cannot be aggregated, and section 465 shall apply only to the receipts and expenditures from the farm activity.

(f) *Examples.* The provisions of paragraph (e) of this section may be illustrated by the following examples.

Example (1). A operates a farm where A plants and harvests potatoes. On one portion of the farm A also operates a plant in which the potatoes are processed into potator chips. These potato chips are then shipped to various distributors who bag and sell the potator chips to retailers. The processing of potator chips by A shall not be considered a farm activity. The processing neither results in a final product (potato chip) similar to the product as grown (potato) nor is it necessary to obtain a marketable product.

Example (2). B is engaged in the farm activity of growing tobacco. Among the steps B takes to produce a product that is marketable is to maintain a warehouse within the physical boundaries of the farm for the purpose of curing and packing the tobacco that B has grown on the farm. There is no market for the tobacco in the form it takes when harvested. The curing and packing aspect of B's operations is a farm activity, because the final product as processed is similar to the product as grown, and the procedure is necessary to obtain a marketable product.

Example (3). C is engaged in growing wine grapes. In addition, C operates a winery within the boundaries of the farm. The capacity of C's winery is such that C purchases grapes from neighboring farms for use in making the wine in addition to using grapes grown in C's own vineyard. Most of the grape growers in the region of C's vineyard do not operate their own wineries but, instead, sell their grapes to a winery. Therefore the operation of the winery on the farm is not consistent with normal commercial practice. Thus, the operation of the winery is not a farm activity. The end product of the winery (wine) is not similar to the product as grown (grapes). In addition, harvested grapes are a marketable commodity without further processing. The result is the same even if the size of C's winery is such that it can only accommodate the grapes grown by C.

Example (4). D operates a farm on which D raises Black Angus steers. In addition, D maintains facilities on the farm to slaughter the steers. D has a contract with several grocery stores and restaurants in the area to provide them with this meat. Under these curcumstances the slaughtering facilities will not be considered a farm activity.

§ 1.465–44 Activities to which section 465 applies; leasing section 1245 property.

(a) *In general.* Section 465 applies to any taxpayer described in § 1.465–1 (d) (1) who is engaged in the leasing of any section 1245 property (as defined in section 1245 (a) (3)) as a trade or business or for the production of income. However, see section 465 (c) (3) (D) (ii) for special exceptions relating to certain corporations engaged in equipment leasing.

(b) *Loss.* All receipts related to the leasing of section 1245 property and all items of deduction incurred with respect to such receipts are to be taken into account in determining whether there is a section 465 (d) loss.

(c) *Separate activities*—(1) *General rule.* For each section 1245 property which is leased or held for leasing, rules similar to those found in § 1.465–42 (c) shall apply for purposes of determining what constitutes a separate activity.

(2) *Section 1245 property.* For the purposes of section 465 where several section 1245 properties, such as parts of a computer system, comprise one unit under the same lease agreement and are neither separately financed nor subject to different lease terms, the properties will be considered one section 1245 property.

(d) *Lease.* For the purposes of section 465, a lease is any arrangement or agreement, formal or informal, written or oral, whereby the owner of property receives consideration in any form for the use of the property by another party. Whether a specific transaction constitutes a lease or sale shall be determined on the basis of the particular facts and circumstances.

(e) *Ancillary leasing of section 1245 property.* Section 465 shall not apply to amounts received or accrued where the leasing of section 1245 property is incidental to making real property available as living accommodations (such as where an unfurnished rental apartment is equipped with a stove or refrigerator). Section 465 shall also not apply to amounts received or accrued where the leasing of section 1245 property is incidental to the furnishing of services.

§ 1.465–45 Activities to which section 465 applies; exploring for, or exploiting, oil and gas resources.

(a) *In general.* Section 465 applies to any taxpayer described in § 1.465–1 (d) who is engaged in exploring for, or exploiting, oil and gas resources as a trade or business or for the production of income.

(b) *Loss.* All receipts related to exploring for, or exploiting, oil and gas resources and which constitute gross income from the property within the meaning of section 613, and all items of deduction incurred with respect to such receipts, are to be taken into account in determining whether there is a section 465 (d) loss.

(c) *Separate activities.* For each separate oil and gas property (as defined under section 614) rules similar to those found in § 1.465–42 (c) shall apply for purposes of determining what constitutes a separate activity.

(d) *Depletion.* In the case of exploring for, or exploiting, oil and gas resources a taxpayer's allowable deduction under section 611 (relating to an allowance for depletion) shall be considered a deduction incurred in the production of income from the activity. Therefore, it must be taken into account in determining the taxpayer's section 465 (d) loss. A taxpayer's amount at risk in an activity shall be increased by the excess of the deductions for depletion over the basis of the property (used within the activity) subject to depletion.

Transfers and Dispositions

§ 1.465–66 Transfers and dispositions; general rule.

(a) *General rule.* In the case of a transfer or other disposition of all or part of either an activity or an interest in an activity during a taxable year, any gain recognized on the transfer or disposition shall be treated as income from the activity in accordance with § 1.465–12. In the case of a liquidation by a partnership of a partner's interest in that partnership, or complete redemption by an electing small business corporation of a shareholder's stock in that corporation, the provisions of this section shall apply. In general, this section will cause amounts disallowed by section 465 in previous taxable years to be allowed for the taxable year of transfer or disposition. In addition, any gain recognized as the result of a transfer or disposition of an asset which was at one time used in an activity shall be treated as income from the activity, notwithstanding the fact that the taxpayer's participation in the activity ended prior to the transfer or disposition.

(b) *Examples.* The provisions of this section may be illustrated by the following examples:

Example (1). On January 1, 1976, A and B as equal partners form partnership AB. A and B, as well as AB, are calendar year taxpayers. After the close of taxable year 1978 A's basis in AB is $3,000, A's amount at risk is zero, and A has $7,000 of losses from the activity which would have been allowed but for section 465 (a). AB's assets are subject to a nonrecourse loan of $20,000, of which A's share is $10,000. On January 1, 1979, C purchases A's interest in AB for $11,000. C pays A $1,000 in cash and takes a 50 percent interest in the partnership, which is renamed BC. BC's assets are still encumbered to the extent of $20,000. A's amount realized is $11,000, which includes $1,000 cash as well as the amount of the encumbrance on A's share of AB's assest ($10,000). Therefore, A's gain is $8,000 ($11,000–$3,000). This $8,000 is income from the activity. Assuming A is entitled to no deductions allocable to the activity for 1979 other than those disallowed in 1978 under section 465 (a), income allocable to the activity for 1979 ($8,000) will exceed the deductions ($7,000). Consequently, A will not have a section 465 (d) loss from the activity in 1979 because $7,000 is less than the amount of income from the activity for 1979 ($8,000). The $7,000 of deductions will be allowed for 1979.

Example (2). On January 1, 1978, D, an individual, purchases a piece of equipment to be used in an activity described in section 465 (c)(1)(C). D purchases the equipment for $10,000, paying $1,000 from personal assets and borrowing $9,000 from a bank. The loan from the bank is a nonrecourse loan secured by the equipment. After the close of 1980 D's basis in the equipment is $2,000 and the amount at risk in the activity is zero. As of the beginning of 1981 D has $7,000 of losses which would be allowed but for section 465 (a). The equipment is still encumbered by the $9,000 loan. On January 1, 1981, D gives the piece of equipment to a relative, E. The fair market value of the equipment at the time of the transfer is $9,500. E pays no cash to D but takes the equipment still subject to the nonrecourse loan. D's amount realized on the transfer is $9,000, attributable to the liabilities to which the equipment is subject. D must recognize $7,000 ($9,000–$2,000) of income on the disposition. This $7,000 is income from the activity. Assuming D is entitled to no deductions allocable to the activity for 1981 other than those disallowed in 1980 under section 465 (a) the income allocable from the activity for 1981 ($7,000) will equal the deductions allocable to the activity for 1981 ($7,000). Consequently, D will not have a section 465 (d) loss from the activity in 1981 and the $7,000 of deductions will be allowed for 1981, because there is an equal amount of income from the activity in that year.

Example (3). E, an individual calendar year taxpayer, is a partner in partnership EFGH, which is also a calendar year taxpayer. At the close of 1978 E's amount at risk is zero, E's adjusted basis is $350, and E has deductions disallowed by section 465 in the amount of $50. E's share of nonrecourse liabilities of the partnership is $400. At the close of 1979 none of the figures has changed and EFGH distributes property (which is not described in section 751) to E in complete liquidation of E's interest in EFGH. Under section 752 (b) E is treated as receiving $400. Under section 732 (b), E's basis of $350 is reduced to zero. E must recognize $50 of gain ($400–$350). Under this section, E has income from the activity in the amount of the gain recognized ($50). This will allow E to deduct the $50 of deductions previously suspended. In 1979 E will not have a section 465 (d) loss from the activity.

§ 1.465–67 Transfers and dispositions; pass through of losses suspended under section 465 (a).

(a) *Applicability.* This section shall apply to any transfer or disposition in which—

(1) The taxpayer transfers or disposes of such taxpayer's entire interest in the activity or the entity conducting the activity,

(2) The basis of the transferee is determined in whole or in part by reference to the basis of the transferor; and

(3) The transferor has suspended losses under section 465 (a) at the time of the transfer or disposition.

For the treatment of any gain recognized by the transferor, see § 1.465–66.

(b) *Pass through of suspended losses.* If at the close of the taxable year in which the transfer or disposition occurs, the amount of the transferor's section 465 (d) loss from the activity is in excess of the transferor's amount at risk in the activity, such excess shall be added to the transferor's basis in the activity. The preceding sentence is to be applied after the determination of any gain to the transferor and is to be used solely for the purpose of determining the basis of the property in the hands of the transferee.

§ 1.465–68 Transfers and dispositions; amounts at risk in excess of losses disallowed.

(a) *Applicability.* This section shall apply to any transfer or disposition (except a transfer at death) in which—

(1) The taxpayer transfers or disposes of such taxpayer's entire interest in the activity or the entity conducting the activity;

(2) The basis of the transferee is determined in whole or in part by reference to the basis of the transferor; and

(3) The transferor has an amount at risk which is in excess of losses from the activity.

(b) *General rule.* At the close of the transferor's taxable year in which the transfer or disposition occurs, the transferor's amount at risk in the activity (after being reduced by the transferor's losses from that activity for that taxable year) shall be added to the transferee's amount at risk. In addition, the transferee's amount at risk shall be increased by the amount that the transferee's basis is increased under section 1015 (d) (relating to gift tax paid by the transferor).

(c) *Limitation.* The amount by which the transferee's amount at risk is increased under paragraph (b) of this section shall be limited to the amount of the transferee's basis which exceeds the amount considered paid by the transferee at the time of the transfer. For the purposes of this section the amount considered paid by the transferee includes the amount of liabilities to which the transferred property is subject.

(d) *Examples.* The provisions of this section may be illustrated by the following examples:

Example (1). On December 31, 1978, F, an individual, makes a gift to G of F's entire interest in an activity described in section 465 (c) (1). F had engaged in the activity as an individual. As of the close of 1978 F's amount at risk in the activity is $500, F's adjusted basis in the activity is $9,500, the fair market value of the activity is $20,000, and the activity is subject to a nonrecourse liability of $9,000. G does not pay any cash to F but takes the gift subject to the $9,000 liability. Since F's amount at risk in the activity is $500 at the close of the year, this amount shall be added to G's amount at risk. This amount is not limited by paragraph (c) of this section, because the amount of G's adjusted basis which exceeds the amount G is considered to have paid at the time of the transfer is also $500 ($9,500–$9,000). Therefore, G is at risk in the amount of $500.

Example (2). Assume the same facts as in example (1), except that in addition to G taking the gift subject to the $9,000 liability, G also pays F $1,500 in cash. Regardless of how much F is at risk, G's amount at risk will not be increased as the result of this section. This is because the amount of increase is limited to the excess of G's basis ($10,500, consisting of the $9,000 liability, plus the $1,500 cash paid to F) over the amount G is considered to have paid F ($9,000 + $1,500 = $10,500). Since the excess is zero (10,500—$10,500), the amount of increase under § 1.465–68 (b) is also zero. G's amount at risk will be increased, however, under § 1.465–22 (d) by the $1,500 cash paid to F, and therefore, G's amount at risk is $1,500.

§ 1.465–69 Transfers and dispositions; amounts at risk in excess of losses disallowed with respect to transfers at death.

(a) *Applicability.* If after the close of the taxable year in which a decedent dies, the decedent's amount at risk in the activity (after being reduced by losses previously suspended under section 465(a)) is greater than zero, such amount shall be added to the successor's amount at risk. However, this amount must be adjusted to reflect changes, if any, in the amount at risk occurring as the result of the decedent's death. The successor's amount at risk shall also be increased by the amount which the successor's basis in the activity is increased under section 1014 or 1023(h), (c), (d), and (e).

(b) *Example.* The provisions of this section may be illustrated by the following example:

Example. H, an individual, is engaged in an activity described in section 465(c)(1) for a taxable year in which section 1023 applies. On December 31 of such year, H dies. On that date H's basis in the activity is $6,000, H's amount at risk in the activity is $2,500, and the fair market value of the activity is $12,500. Under H's will, J is the sole beneficiary of H's interest in the activity. During the period between H's death and the time J succeeded to the activity nothing occurred which affected the amount at risk. Under sections 1023(h), (c), (d), and (e), the basis of the activity in the hands of J is increased by $5,000, which when added to H's basis of $6,000, gives J a basis in the activity of $11,000. To determine J's amount at risk in the activity, H's amount at risk in the activity ($42,500) is added to the amount by which J's basis in the activity is increased under sections 1023(h), (c), (d), and (e) ($5,000). Therefore, J's amount at risk in the activity is $7,500 ($2,500 + $5,000).

Amounts at Risk With Respect to Activities Begun Prior to Effective Date

§ 1.465—75 Amounts at risk with respect to activities begun prior to effective date; in general.

Section 465 generally applies to losses attributable to amounts paid or incurred in taxable years beginning after December 31, 1975. For the purposes of applying the at risk limitation to activities begun before the effective date of the provision (and which were not excepted from application of the provision), it is necessary to determine the amount at risk as of the first day of the first taxable year beginning after December 31, 1975. The amount at risk in an activity as of the first day of the first taxable year of the taxpayer beginning after December 31, 1975 (for the purposes of §§ 1.465–75 through 1.465–79, such first day shall be referred to as the effective date) shall be determined according to the rules provided in §§ 1.465–76 through 1.465–79.

§ 1.465–76 Amounts at risk with respect to activities begun prior to effective date; determination of amount at risk.

(a) *Initial amount.* The amount a taxpayer is at risk on the effective date with respect to an activity to which section 465 applies shall be determined in accordance with this section. The initial amount the taxpayer is at risk in the activity shall be the taxpayer's initial basis in the activity as modified by disregarding amounts described in section 465(b)(3) or (4) (relating generally to amounts protected against loss or borrowed from related persons).

(b) *Succeeding adjustments.* For each taxable year ending before the effective date, the initial amount at risk shall be increased and decreased by the items which increased and decreased the taxpayer's basis in the activity in that year as modified by disregarding the amounts described in section 465(b) (3) or (4).

(c) *Application of losses and withdrawals.* (1) Losses described in section 465(d) which are incurred in taxable years beginning prior to January 1, 1976 and deducted in such taxable years will be treated as reducing first that portion of the taxpayer's basis which is attributable to amounts not at risk. On the other hand, withdrawals made in taxable years beginning before January 1, 1976 will be treated as reducing the amount which the taxpayer is at risk.

(2) Therefore, if in a taxable year beginning prior to January 1, 1976 there is a loss described in section 465(d), it shall reduce the amount at risk only to the extent it exceeds the amount of the taxpayer's basis which is not at risk. For the purposes of this paragraph the taxpayer's basis which is not at risk is that portion of the taxpayer's basis in the activity (as of the close of the taxable year and prior to reduction for the loss) which is attributable to amounts described in section 465(b)(3) or (4).

(d) *Amount at risk shall not be less than zero.* If, after determining the amount described in paragraph (a), (b), and (c) of this section, the amount at risk (but for this paragraph) would be less than zero, the amount at risk on the effective date shall be zero.

§ 1.465–77 Amounts at risk with respect to activities begun prior to effective date; allocation of loss for different taxable years.

If the taxable year of the entity conducting the activity differs from that of the taxpayer, the loss attributable to the activity for the first taxable year of the entity ending after the beginning of the first taxable year of the taxpayer beginning after December 31, 1975, shall be allocated in the following manner: That portion of the loss from the activity for such taxable year of the entity which is attributable to taxable years of the taxpayer beginning before January 1, 1976, is that portion which bears the same ratio to the total loss as the number of days in such taxable year before January 1, 1976, bears to the total number of days in the entire taxable year. Consequently, that portion shall be treated in accordance with § 1.465–76.

§ 1.465–78 Amounts at risk with respect to activities begun prior to effective date; insufficient records.

If sufficient records do not exist to accurately determine under § 1.465–76 the amount which a taxpayer is at risk on the effective date, the amount at risk shall be the taxpayer's basis in the activity reduced (but not below zero) by the taxpayer's share of amounts described in section 465 (b) (3) or (4)

with respect to the activity on the day before the effective date.

§ 1.465–79 Amounts at risk with respect to activities begun prior to effective date; examples.

The provisions of § 1.465–75 and § 1.465–76 may be illustrated by the following examples:

Example (1). J and K, as equal partners, form partnership JK on January 1, 1975 to engage in an activity described in section 465(c)(1). Both J and K, as well as JK, are calendar year taxpayers. On January 1, 1975, each partner contributes $10,000 in cash from personal assets to JK. On July 1, 1975, JK borrows $40,000 (of which J's share is $20,000) from a bank under a nonrecourse financing arrangement secured only by the new equipment purchased with the $40,000 for use in the activity. On September 1, 1975, JK reduces the amount due on the loan to $36,000 (of which J's share is $18,000). On October 1, 1975, JK distributes $3,000 to each partner. For taxable year 1975, JK has no income or loss. Although J's basis in the activity is $25,000 ($10,000 + $18,000 − $3,000). J's amount at risk on the effective date is $7,000, determined as follows:

Initial amount at risk		$10,000
Plus:		
Items which increased basis other than amounts described in section 465(b) (3) or (4)		0
		$10,000
Less:		
Distribution		3,000
J's amount at risk on effective date		$7,000

Example (2). Assume the same facts as in example (1) except that JK has a section 465(d) loss for 1975, of which J's share is $12,000. Although J's basis in the activity is $13,000 [$10,000 + $18,000 − ($3,000 + $12,000)], J's amount at risk on the effective date is $7,000, determined as follows:

Initial amount at risk		$10,000
Plus:		
Items which increased basis other than amounts described in section 465(b) (3) or (4)		0
		$10,000
Less:		
Distribution plus portion of loss ($12,000) in excess of portion of basis not at risk ($18,000) ($3,000 + 0)		3,000
J's amount at risk on effective date		$7,000

Example (3). Assume the same facts as in example (1) except that JK has a section 465(d) loss for 1975, and J's share is $23,000. J's basis in the activity is $2,000 ($10,000 + $18,000 − ($3,000 + $23,000)]. The amount at risk on the effective date is determined as follows:

Initial amount at risk			$10,000
Plus:			
Items which increased basis other than amounts described in section 465(b) (3) or (4)			0
			$10,000
Less:			
Distribution	$3,000		
Portion of loss ($23,000) in excess of portion of basis not at risk ($18,000)	5,000		8,000
J's amount at risk on the effective date			$2,000

Effective Date

§ 1.465–95 Effective date.

(a) *In general.* Except as otherwise provided, the regulations under section 465 shall apply to losses attributable to amounts paid or incurred in taxable years beginning after December 31, 1975. For purposes of this paragraph, any amount allowed or allowable for depreciation, amortization, or depletion for any period shall be treated as an amount paid or incurred in such period.

(b) *Special rules.* For special rules relating to the effective date of section 465 with respect to certain leasing activities and certain movie and video tape activities, see section 204(c) (2) and (3) of the Tax Reform Act of 1976 (90 Stat. 1532).

§ 7.465–1 Through 7.465–5 [Revoked]

2. Sections 7.465–1 through 7.465–5 of this chapter (26 CFR Part 7), promulgated by Treasury Decision 7504, are hereby revoked.

Jerome Kurtz,

Commissioner of Internal Revenue.

[FR Doc. 79–17484 Filed 6–4–79; 8:45 am]

BILLING CODE 4830–01–M

[26 CFR Part 31]

[LR–35–76]

Extensions of Temporary Reduction of Withholding of Income Tax at Source; Notice of Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the extensions of temporary reduction of withholding of income tax at source. Changes to the applicable tax law were made by the Revenue Adjustment Act of 1975, the Act of June 30, 1976, the Act of September 3, 1976, the Act of September 17, 1976, the Tax Reform Act of 1976, the Tax Simplification and Reduction Act of 1977, and the Revenue Act of 1978. The regulations would provide employers required to withhold income tax from employees' wages with the guidance needed to comply with the changes.

DATES: Written comments and requests for a public hearing must be delivered or mailed by July 30, 1979. The amendments are proposed to be effective for wages paid after December 31, 1975.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, 1111 Constitution Avenue, NW, Washington, D.C. 20224 Attention: CC:LR:T (LR–35–76).

FOR FURTHER INFORMATION CONTACT: Susan K. Thompson of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, D.C. 20224 (attention: CC:LR:T) (202–566–3740).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Employment Tax Regulations (26 CFR Part 31) under section 3402 of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to section 5 (a) of the Revenue Adjustment Act of 1975 (89 Stat. 975), section 3 (a) of the Act of June 30, 1976 (90 Stat. 782), section 2 (a) (1) and (b) of the Act of September 3, 1976 (90 Stat. 1201), section 3 (a) of the Act of September 17, 1976 (90 Stat. 1273), sections 401 (d) (1) and (e) of the Tax Reform Act of 1976 (90 Stat. 1557), section 105 (a) of the Tax Reduction and Simplification Act of 1977 (91 Stat. 140), and section 101 (e) (1) of the Revenue Act of 1978 (92 Stat. 2770), and are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Withholding Requirements

Existing regulations provide that the tables contained in Circular E (Employer's Tax Guide) shall govern the amount of tax to be deducted and withheld under the percentage method of withholding on wages paid after April 30, 1975, and before January 1, 1976. The proposed amendments to the regulations issued require reference to Circular E with respect to wages paid on or after January 1, 1976.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

Drafting Information

The principal author of these proposed regulations is Susan K. Thompson of the Legislation and

Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 31 are as follows:

§ 31.3402 [Amended]

Paragraph 1. Section 31.3402 (a) is deleted.

Par. 2. Section 31.3402 (a)–2 is amended to read as follows:

§ 31.3402 (a)–2 Amount of tax to be withheld under percentage method of withholding.

(a) *Wages paid after April 30, 1975.* With respect to wages paid after April 30, 1975, the amount of tax to be deducted and withheld under the percentage method of withholding shall be determined under the applicable percentage method withholding table contained in Circular E (Employer's Tax Guide).

(b) *Wages paid after December 31, 1969, and on or before April 30, 1975.* With respect to wages paid after December 31, 1969, and on or before April 30, 1975, the amount of tax to be deducted and withheld under the percentage method of withholding shall be determined in accordance with the tables set forth in section 3402 (a), as in effect when such wages are paid.

Par. 3. Sections 31.3402 (b), 31.3402 (c), 31.3402 (d), 31.3402 (e), 31.3402 (f)(1), 31.3402 (f) (2), 31.3402 (f) (3), 31.3402 (f) (4), 31.3402 (f) (5), 31.3402 (f) (6), 31.3402 (g), 31.3402 (h) (1), 31.3402 (h) (2), 31.3402 (h) (3), 31.3402 (h) (4), 31.3402 (i), 31.3402 (j), 31.3402 (k), 31.3402 (l), 31.3402 (m), 31.3402 (n), 31.3402 (o), and 31.3402 (p) are deleted.

Jerome Kurtz,

Commissioner of Internal Revenue.

[FR Doc. 79–17313 Filed 6–4–79; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF JUSTICE

Parole Commission

[28 CFR Part 2]

Parole, Release, Supervision, and Recommitment of Prisoners, Youth Offenders, and Juvenile Delinquents; Proposed Rulemaking

AGENCY: U.S. Parole Commission.

ACTION: Proposed rule.

SUMMARY: The Commission is setting forth for public comment a proposed revision to its rules which would provide for the holding of a revocation hearing on a parole violator warrant which has been lodged as a detainer no later than one year after the parolee has been confined on a new sentence. The proposed rule further clarifies Commission policy regarding confined parolees, and provides for a procedure which would require two Commissionsers' signatures (1) before a warrant—once lodged as a detainer—could be removed; or (2) to run a violator term concurrently with a new sentence.

DATE: Comments must be received by July 25, 1979.

ADDRESS: Send comments to U.S. Parole Commission, 320 First Street, N.W., Washington, D.C. 20537; Attn: General Counsel.

FOR FURTHER INFORMATION CONTACT: Barbara Meierhoefer, Research Unit, U.S. Parole Commission, 320 First St., N.W., Washington, D.C. 20537.

SUPPLEMENTARY INFORMATION:

Background

When a parolee has been sentenced to incarceration for a new offense, the Commission's general policy is to (1) issue a violator warrant to be placed as a detainer; and (2) conduct a dispositional review of the warrant on the record within six months to determine whether to withdraw the detainer or to let the detainer stand.

At the present time, the revocation hearing is most commonly set to take place after release from confinement on the new offense. At this revocation hearing, the Commission basically makes four decisions:

(1) *Revocation of Parolee.* Since there is a conviction for a crime committed while on parole, confined parolees can generally expect to have their parole revoked.

(2) *Crediting of Street Time.* Confined parolees can generally expect their original sentence to begin running again upon release from custody on the new sentence. Parolees with new convictions are not given credit for time spent under supervision unless they were originally sentenced under the provisions of the Youth Corrections Act or the Narcotic Addict Rehabilitation Act. A forfeiture decision lengthens the amount of time which the parolee has to serve (either as a violator or under reparole supervision) on the original sentence.

(3) *Whether the violator term will run concurrently with or consecutive to the new sentence.* The general policy of the Commission is to run the violator term consecutive to the new sentence. This allows the Commission to retain jurisdiction over the parolee for a longer period of time, but does not address the issue of the apportionment of the sentence between time to be served in confinement and time to be served under supervision (i.e., when reparole may be granted) (see (4) below).

(4) *Reparole.* This decision fixes the effective or presumptive re-release date on the violator term. The customary length of time to be served for violators with new criminal conduct is set forth at § 2.21. For reparole guideline purposes, all time spent in custody on the new offense *is* credited towards satisfaction of the guidelines, i.e., 'time to be served'. The Commission feels that this policy helps to reduce disparity in total time served by parole violators in light of varying penalties imposed among varying jurisdictions for the new criminal conduct in question.

Purpose of the Proposal

The proposed rule would provide confined parolees with a revocation hearing after 12 months of incarceration on a new sentence, or upon release from incarceration on the new sentence, whichever comes first. The purpose is to reduce the period of uncertainty for incarcerated parolees as to the federal parole disposition of his/her case. The Commission has chosen the 12 month period after consideration of delays in notification of the parolee's confinement, the timing of dispositional reviews, and the cost and timing of dispatching examiners to the place of incarceration. However, this proposal in no way dispenses with the holding of a dispositional record review within 180 days.

The proposal will affect those committed parolees serving new sentences in excess of one year. In addition to being told their revocation/reparole decision before release on the new sentence, they will also benefit if they are given a reparole date which will be reached while they are still serving time on the new sentence. In such a case, the original sentence will commence running prior to release on the new sentence.

The proposal allows a departure from the general policies of (1) letting the detainer stand at the dispositional review; and (2) running the violator term consecutively to the new sentence only by obtaining the signatures of two Commissioners under the procedures of § 2.24(a).

The proposal further clarifies the Commission's present policy of

customarily running the violator term consecutively to the new sentence for jurisdictional purposes, but of crediting the parole violator with time spent in custody on the new sentence for purposes of satisfying the reparole guidelines.

The Proposed Rule Change

It is proposed that § 2.47 be modified as follows:

§ 2.47 Warrant placed as a detainer and dispositional review.

(a) In those instances where a parolee is serving a new sentence in an institution, a parole violation warrant may be placed against him as a detainer. Such warrant shall be reviewed by the regional Comissioner not later than 180 days following notification to the Commission of such placement. The parolee shall receive notice of the pending review, and shall be permitted to submit a written application containing information relative to the disposition of the warrant. He shall also be notified of his right to request counsel under the provisions of § 2.48(b) to assist him in completing this written application.

(b) Following a dispositional review under this section, the regional Commissioner may:

(1) Pursuant to the general policy of the Commission, let the warrant stand as a detainer and order that a revocation hearing be scheduled upon release from confinement on the new term, or upon completion of twelve months in confinement on the new term, whichever come first.

(2) Pursuant to the procedures set forth at § 2.24(a), forward the case to the National Commissioners with a recommendation and vote to withdraw the warrant, thus (i) ordering the reinstatement of the parolee to supervision upon release from confinement or (ii) closing the case if the expiration date has passed. Specific reasons for such decision shall be provided.

(c) Revocation hearings pursuant to this section shall be conducted in accordance with the provisions governing institutional revocation hearings, except that a hearing conducted at a state or local facility may be conducted by a hearing examiner, hearing examiner panel, or other official designated by the Regional Commissioner. Following a revocation hearing conducted pursuant to this section, the Commission may take action specified in § 252.

(d)(1) A parole violator whose parole is revoked shall be given credit for all time in state or federal custody on a new offense for purposes of satisifacion of the reparole guidelines at §§ 2.20 and 2.21.

(2) However, it shall be the general policy of the Commission that the parolee's original sentence (which, due to the new conviction, stopped running upon his last release from federal custody on parole) again start to run only upon release from the custody portion of the new sentence or the effective date of reparole on the violator term, whichever come first. Exceptions to the general policy set forth in this subparagraph may, for specific reasons, be taken by the Commission under the procedures of § 2.24(a).

(e) If a Regional Commissioner determines that additional information is required in order to make a decision pursuant to paragraph (b) of this section, he may schedule a dispositional hearing at the institution where the prisoner is confined to obtain such information. Such hearing may be conducted by an examiner, or other official designated by the Regional Commissioner. The parolee shall have notice of such hearing, be allowed to testify in his behalf, and to have opportunity for counsel as provided by § 2.48(b).

Dated: May 30, 1979.

Cecil C. McCall,

Chairman, United States Parole Commission.

[FR Doc. 79-17349 Filed 6-4-79; 8:45 am]

BILLING CODE 4410-01-M

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 1239-8]

Availability of Implementation Plan Revision for Massachusetts

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Receipt.

SUMMARY: This notice is to announce the receipt of a State Implementation Plan (SIP) revision for Massachusetts which is available for public review and comment.

Under the requirements of Part D of the Clean Air Act, Massachusetts submitted to EPA on May 16, 1979 a revision to its SIP for certain areas designated as not attaining the National Ambient Air Quality Standards (NAAQS) for Carbon Monoxide and oxidants. As required by the Act, the purpose of this revision is to implement new measures for controlling air pollution and to demonstate that these measures will provide for attainment of the primary NAAQS as expeditiously as practicable, but no later than December 31, 1982 (in certain instances December 31, 1987). A Notice of Proposed Rulemaking describing the revision and EPA's intended approval or disapproval action will be published in the **Federal Register** at a later date.

DATES: See Supplementary Information.

ADDRESSES: Copies of the SIP revision are available for inspection at the following addresses: Environmental Protection Agency, Region I, Air Branch, Room 1903, J.F.K. Federal Building, Boston, Massachusetts 02203; Environmental Protection Agency, Public Information Reference Unit, 401 M Street, S.W., Washington, D.C. 20460; and the Department of Environmental Quality Engineering, Division of Air and Hazardous Materials, 600 Washington Street, Room 320, Boston, Massachusetts 02111.

Written comments should be sent to: Frank J. Ciavattieri, Chief, Air Branch, Environmental Protection Agency, Region I, J.F.K. Federal Building, Room 1903, Boston, Massachusetts 02203.

FOR FURTHER INFORMATION CONTACT: Frank J. Ciavattieri, Chief, Air Branch, Environmental Protection Agency, Region I, J.F.K. Federal Building, Room 1903, Boston, Massachusetts 02203, Telephone: 617/223-5609.

SUPPLEMENTARY INFORMATION: On March 3, 1978 (43 FR 8962), and on September 11, 1978 (43 FR 40412), pursuant to the requirements of Section 107 of the Clean Air Act, EPA designated areas in each state as non-attainment with respect to the criteria air pollutants. The non-attainment areas in Massachusetts for carbon monoxide and oxidants are:

Massachusetts	CO	O_x
Statewide		X
Central Massachusetts AQCR:		
Worcester	X	
Athol	X	
Pioneer Valley AQCR:		
Springfield	X	
Metropolitan Boston AQCR:		
Boston	X	
Danvers	X	
Cambridge	X	
Medford	X	
Waltham	X	
Merrimack Valley AQCR:		
Lowell	X	

Part D of the Clean Air Act requires each state to revise it SIP to meet specific requirements in non-attainment areas. These SIP revisions were due on January 1, 1979 and must demonstrate attainment of the NAAQS as expeditiously as practicable, but no

later than December 31, 1982, or in limited instances for carbon monoxide and oxidants, no later than December 31, 1987.

On May 16, 1979 EPA received the Massachusetts attainment plan for carbon monoxide and ozone which contains the transportation element and strategies for control of volatile organic compounds from stationary sources together with a request for an extension of the attainment date to 1987, which is under review. At the completion of this review, a notice will be published in the **Federal Register** proposing approval or disapproval of the revision.

All interested persons are advised that the proposed revision is available for review at the locations listed, and are invited to comment on its approvability. A file of documents explaining EPA's criteria for approval is also available at EPA offices. The proposed notice referred to above will announce the last day for public comment. This public comment period will end not less than 60 days from this date and not less than 30 days from the published date of EPA's proposal for approval or disapproval.

Dated: May 25, 1979.

William R. Adams, Jr.,

Regional Administrator, Region I.

[FR Doc. 79-17463 Filed 6-4-79; 8:45 am]

BILLING CODE 6560-01-M

[40 CFR Part 65]

[FRL 1240-1]

Proposed Approval of Administrative Order Issued By Ohio Environmental Protection Agency to City of St. Marys, Ohio

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed Rule.

SUMMARY: U.S. EPA proposes to approve an Administrative Order issued by the Ohio Environmental Protection Agency to the City of St. Marys, Ohio. The Order requires the City to bring air emissions from its coal-fired boilers in the power plant on North Street into compliance with certain regulations contained in the federally approved Ohio State Implementation Plan (SIP) by December 31, 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 U.S. EPA before it becomes effective as a Delayed Compliance Order under the Clean Air Act (the Act). If approved by U.S. 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 U.S. EPA's proposed approval of the Order as a Delayed Compliance Order.

DATE: Written comments must be received by July 5, 1979.

ADDRESSES: Comments should be submitted to Director, Enforcement Division, U.S. EPA, Region V, 230 South Dearborn Street, Chicago, Illinois 60604. 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: Cynthia Colantoni, Enforcement Division, U.S. EPA, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 353-2082.

SUPPLEMENTARY INFORMATION: The City of St. Marys, Ohio operates a power plant on North Street. The Order under consideration addresses emissions from a coal-fired boiler at the facility, which is subject to OAC 3745-17-07 and OAC 3745-17-10. The regulations limit particulate matter emissions and visible emissions and are part of the federally approved Ohio State Implementation Plan. The Order requires final compliance with the regulations by December 31, 1979, through the installation of an electrostatic precipitator.

Because this Order has been issued to a major source of particulate matter emissions and visible emissions and permits a delay in compliance with the applicable regulations, it must be approved by U.S. EPA before it becomes effective as a Delayed Compliance Order under Section 113(d) of the Act. U.S. EPA may approve the Order only if it satisfies the appropriate requirements of this subsection.

If the Order is approved by U.S. EPA, source compliance with its terms would preclude Federal enforcement action under Section 113 of the Act against the source for violations of the regulations 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 Ohio SIP. However, in the event final compliance is not achieved by July 1, 1979, source compliance with the Order will not preclude assessment of any noncompliance penalties under Section 120 of the Act, unless the source is otherwise entitled to an exemption under Section 120(a)(2) (B) or (C).

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 U.S. EPA may approve the Order. After the public comment period, the Administrator of U.S. EPA will publish in the **Federal Register** the Agency's final action on the Order in 40 CFR Part 65.

(Authority: 42 U.S.C. 7413, 7601.)

Dated: May 21, 1979.

John McGuire,

Regional Administrator.

Ohio Environmental Protection Agency

In the Matter of: City of St. Marys Power Plant, North Street, St. Marys, Ohio.

The Director of Environmental Protection (hereinafter "Director"), hereby makes the following Findings of Fact and, pursuant to Sections 3704.03 (S) and (I) and 3704.031 of the Ohio Revised Code and in accordance with Section 113(d) of the Clean Air Act, as amended, 42 U.S.C. 7401 et seq., issues the following Orders which will not take effect until the Administrator of the United States Environmental Protection Agency has approved their issuance under the Clean Air Act:

Findings of Fact

1. City of St. Marys (hereinafter "St. Marys"), operates a coal-fired boiler which serves its facility located at North Street, St. Marys, Ohio.

2. In the course of operation of said coal-fired boiler, air contaminants are emitted in violation of OAC 3745-17-07 and OAC 3745-17-10.

3. St. Marys is unable to immediately comply with OAC 3745-17-07 and OAC 3745-17-10.

4. Potential emissions of particulates from the coal-fired boiler are approximately 230 tons per year; therefore, St. Marys constitutes a major stationary source or facility under Section 302(j) of the Clean Air Act, as amended.

5. The compliance schedule set forth in the Orders below requires compliance with OAC 3745-17-07 and OAC 3745-17-10 as expeditiously as practicable.

6. Implementation by St. Marys of the interim requirements contained in the Orders below will fulfill the requirements of Section 113(d)(7) of the Clean Air Act, as amended.

7. It is technically and economically unreasonable to require St. Marys to install and operate a continuous opacity monitoring system on the boiler prior to achieving compliance with the Orders specified below, since St. Marys is currently unable to comply with the requirements of OAC 3745-17-07 pertaining to visible emissions, no data would be produced which is not already known, and therefore, no purpose would be served.

8. The Director's determination to issue the Orders set forth below is based upon his consideration of reliable, probative and substantial evidence relating to the technical feasibility and economic reasonableness of compliance with such Orders, and their relation to benefits to the people of the State to be derived from such compliance.

Orders

Whereupon, after due consideration of the above Findings of Fact, the Director hereby issues the following Orders pursuant to Sections 3704.03 (S) and (I) and 3704.031 of the Ohio Revised Code in accordance with Section 113(d) of the Clean Air Act, as amended, 42 U.S.C. 7401 et seq., which will not take effect until the Administrator of the United States Environmental Protection Agency has approved their issuance under the Clean Air Act.

1. St. Marys shall bring its coal-fired boiler located at North Street, St. Marys, Ohio into final compliance with OAC 3745-17-07 and OAC 3745-17-10 by installation of an electrostatic precipitator no later than December 31, 1979.

2. Compliance with Order (1) above shall be achieved by St. Marys in accordance with the following schedule on or before the dates specified:

Submit final control plans—complete.

Award contracts for the electrostatic precipitator and associated control equipment—February 1, 1979.

Initiate construction of the electrostatic precipitator and associated control equipment—April 1, 1979.

Complete construction of the electrostatic precipitator and associated control equipment—December 1, 1979.

Conduct compliance tests and submit the test results to the Northwest District Office of the Ohio EPA—December 31, 1979.

Achieve final compliance with OAC 3745-17-07 and OAC 3745-17-10—December 31, 1979.

3. Pending achievement of compliance with Order (1) above, St. Marys shall comply with the following interim requirements which are determined to be reasonable and to be the best practicable system(s) of emission reduction, and which are necessary to ensure compliance with OAC 3745-17-07 and OAC 3745-17-10 insofar as St. Marys is able to comply with them during the period this Order is in effect in accordance with Section 113(d)(7) of the Clean Air Act, as amended. Such interim requirements shall include:

a. St. Marys shall immediately use coal with an analysis of less than or equal to 12 percent ash, in order to minimize the emissions from the coal-fired boiler.

b. St. Marys shall immediately institute a regular maintenance program to minimize the emissions from the coal-fired boiler.

c. St. Marys shall continue to use the existing mechanical collector to minimize emissions from the coal-fired boiler.

4. Within five (5) days after the scheduled achievement date of each of the increments of progress specified in the compliance schedule in Order (2) above, St. Marys shall submit a written progress report to the Northwest District Office, Ohio EPA. The person submitting these reports shall certify whether each increment of progress has been achieved and the date it was achieved. On a quarterly basis, beginning on March 1, 1979, St. Marys shall also submit a written report to Northwest District Office, Ohio EPA concerning the maintenance and operation of the coal-fired boiler and the quality of the coal burned in the boiler.

5. St. Marys shall conduct emissions tests on the coal-fired boiler to verify compliance with Order (1) above. Such tests shall be conducted in accordance with procedures approved by the Director, and the results shall be submitted to the Northwest District Office no later than the date specified in Order (2) above. Written notification of intent to test shall be provided to the Northwest District Office thirty days prior to the testing date.

6. St. Marys is hereby notified that unless it is exempted under Section 120(a)(2) (B) or (C) of the Clean Air Act, as amended, failure to achieve final compliance with Order (1) above by July 1, 1979, will result in a requirement to pay a noncompliance penalty under Section 120 of the Clean Air Act, as amended.

These orders will not take effect until the Administrator of the United States Environmental Protection Agency has approved their issuance under the Clean Air Act.

James F. McAvoy,

Director of Environmental Protection.

Date: April 25, 1979.

Waiver

The City of St. Marys agrees that the attached Findings and Orders are lawful and reasonable and agrees to comply with the attached Orders. The City of St. Marys hereby waives the right to appeal the issuance or terms of the attached Findings and Orders to the Environmental Board of Review, and it hereby waives any and all rights it might have to seek judicial review of said Findings and Orders either in law or equity. The City of St. Marys also waives any and all rights it might have to seek judicial review of any approval by U.S. EPA of the attached Findings and Orders or to seek a stay of enforcement of said Findings and Orders in connection with any judicial review of Ohio's air implementation plan or portion thereof.

Authorized Representative of The City of St. Marys:

Kenneth L. Hegemann, P.E.,

Director of Public Service and Safety.

Feb. 13, 1979.

[FR Doc. 79-17428 Filed 6-4-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1240-2]

[40 CFR Part 65]

Proposed Approval of Administrative Order Issued By Ohio Environmental Protection Agency to Steel Abrasives, Inc.

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: U.S. EPA proposes to approve an Administrative Order issued by the Ohio Environmental Protection Agency to Steel Abrasives, Inc. The Order requires the company to bring air emissions from its iron melting cupola with tapping and cooling sections in Fairfield, Ohio, into compliance with certain regulations contained in the federally approved Ohio State Implementation Plan (SIP) by July 1, 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 U.S. EPA before it becomes effective as a Delayed Compliance Order under the Clean Air Act (the Act). If approved by U.S. 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 U.S. EPA's proposed approval of the Order as a Delayed Compliance Order.

DATE: Written comments must be received on or before July 5, 1979.

ADDRESSES: Comments should be submitted to Director, Enforcement Division, U.S. EPA, Region V, 230 South Dearborn Street, Chicago, Illinois 60604. 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: Cynthia Colantoni, Enforcement Division, U.S. EPA, 230 South Dearborn Street, Chicago, 60604. (312) 353-2082.

SUPPLEMENTARY INFORMATION: Steel Abrasives, Inc. operates an iron melting cupola with tapping and cooling sections at Fairfield, Ohio. The Order under consideration addresses emissions from this facility, which is subject to OAC-3745-17-07 and OAC-3745-17-11. The regulations limit particulate matter emissions and visible emissions and are part of the federally approved Ohio State Implementation Plan. The Order

requires final compliance with the regulations by July 1, 1979 through the installation of a properly designed high efficiency wet scrubber.

Because this Order has been issued to a major source of particulate matter emissions and visible emissions and permits a delay in compliance with the applicable regulations it must be approved by U.S. EPA before it becomes effective as a Delayed Compliance Order under Section 113(d) of the Act. U.S. EPA may approve the Order only if it satisfies the appropriate requirements of this subsection.

If the Order is approved by U.S. EPA, source compliance with its terms would preclude Federal enforcement action under Section 113 of the Act against the source for violations of the regulations 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 Ohio 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 U.S. EPA may approve the Order. After the public comment period, the Administrator of U.S. EPA will publish in the **Federal Register** the Agency's final action on the Order in 40 CFR Part 65.

(Authority: 42 U.S.C. 7413, 7601).

Date: May 5, 1979.

John McGuire,

Regional Administrator.

The text of the order is as follows:

Before the Ohio Environmental Protection Agency

Order

In the Matter of: Steel Abrasives, Inc., 2727 Symmes Road, Fairfield, Ohio 45014.

The Director of Environmental Protection, (hereinafter "Director"), hereby makes the following Findings of Fact and, pursuant to Sections (3704.03(I) and (S) of the Ohio Revised Code and in accordance with Section 113(d) of the Clean Air Act, as amended, 42 U.S.C. 7401 *et seq.*, issues the following Orders which will not take effect until the Administrator of the United States Environmental Protection Agency has approved their issuance under the Clean Air Act.

Findings of Fact

1. Steel Abrasives, Inc. (hereinafter "Steel Abrasives"), operates an iron melting cupola with tapping and cooling sections (hereinafter "cupola with tapping and cooling sources") which serve its facility located at 2727 Symmes Road, Fairfield, Ohio.

2. In the course of operation of said cupola with tapping and cooling sources, breakdowns and malfunctions of the air pollution control equipment have caused air contaminants to be emitted in excess of that allowable under Rule 3745–17–07 and, based upon the Director's determination, have also caused air contaminants to be emitted in excess of that allowable under Rule 3745–17–11 of the Ohio Administrative Code.

3. Steel Abrasives is unable to immediately comply with Rules 3745–17–07 and 3745–17–11 of the Ohio Administrative Code.

4. The Director finds based upon emission factors published in the U.S. EPA's *Compilation of Air Pollutant Emission Factors* (AP–42) that potential emissions of particulates from the cupola with tapping and cooling sources are approximately 255 tons per year; therefore, the Director finds that Steel Abrasives constitutes a major source under Section 302(j) of the Clean Air Act, as amended.

5. The compliance schedule set forth in the Orders below requires compliance with Rules 3745–17–07 and 3745–17–11 of the Ohio Administrative Code as expeditiously as practicable.

6. Implementation by Steel Abrasives of the interim requirements contained in the Orders below will fulfill the requirements of Section 113(d)(7) of the Clean Air Act, as amended.

7. It is technically and economically unreasonable to require Steel Abrasives to install and operate a continuous opacity monitoring system on the cupola prior to achieving compliance with the Orders specified below, since Steel Abrasives is currently unable to comply with the requirements of OAC 3745–17–07 pertaining to visible emissions, no data would be produced which is not already known, and, therefore, no purpose would be served.

8. The Director's determination to issue the Orders set forth below is based upon his consideration of reliable, probative and substantial evidence relating to the technical feasibility and economic reasonableness of compliance with such Orders, and their relation to benefits to the people of the State to be derived from such compliance.

Orders

Whereupon, after due consideration of the above Findings of Fact, the Director hereby issues the following Orders pursuant to Section 3704.03(I) and (S) of the Ohio Revised Code and in accordance with Section 113(d) of the Clean Air Act, as amended, 42 U.S.C. 7401 *et seq.*, which will not take effect until the Administrator of the United States Environmental Protection Agency has approved their issuance under the Clean Air Act.

1. Steel Abrasives shall bring its cupola with tapping and cooling sources located at 2727 Symmes Road, Fairfield, Ohio, into final compliance with Rules 3745–17–07 and 3745–17–11 of the Ohio Administrative Code by installing a properly designed high efficiency, wet scrubber as expeditiously as practicable but no later than July 1, 1979.

2. Compliance with Order (1) above shall be achieved by Steel Abrasives in accordance with the following schedule on or before the dates specified:

Submit final control plans—complete.
Issue purchase orders, award contracts—12/1/78.
Begin on-site construction—3/12/79.
Complete on-site construction—6/22/79.
Achieve final compliance with state and federal statutes and regulations—7/1/79.

3. Pending achievement of compliance with Order (1) above, Steel Abrasives shall comply with the following interim requirements which are determined to be reasonable and to be the best practicable system of emission reduction, and which are necessary to ensure compliance with Rules 3745–17–07 and 3745–17–11 of the Ohio Administrative Code insofar as Steel Abrasives is able to comply with them during the period this Order is in effect in accordance with Section 113(d)(7) of the Clean Air Act, as amended. Such interim requirements shall include:

A. Steel Abrasives shall continue to implement a regular maintenance program to minimize emissions from the cupola source.

B. Steel Abrasives shall continue to use the existing baghouse to minimize emissions from the cupola source.

4. Within ten (10) days after the scheduled achievement date of each of the increments of progress specified in the compliance schedule in Order (2) above, Steel Abrasives shall submit a written progress report to SWOAPC. The person submitting these reports shall certify whether each increment of progress has been achieved and the date it was achieved. The reports shall also include Steel Abrasives' status of compliance with the interim control requirements in Order (3) above.

5. Steel Abrasives is hereby notified that it may be required to pay a noncompliance penlty under Section 120 of the Clean Air Act, 42 U.S.C. 7420 (depending on the applicability of Section 120), in the event it fails to achieve final compliance with Order (1) above by July 1, 1979.

These Orders will not take effect until the Administrator of the United States Environmental Protection Agency has approved their issuance under the Clean Air Act.

Date: April 25, 1979.

James F. McAvoy,

Director of Environmental Protection.

Waiver

Although Steel Abrasives does not hereby admit to any violations, Steel Abrasives agrees that the attached Findings and Orders are lawful and reasonable and agrees to comply with the attached Orders. Steel Abrasives hereby waives the right to appeal the issuance or terms of the attached Findings and Orders to the Environmental Board of Review, and it hereby waives any and all rights it might have to seek judicial review of said Findings and Orders either in law or equity. Steel Abrasives also waives any and all rights it might have to seek judicial review of any approval by U.S. EPA of the attached Findings and Orders.

Date: January 18, 1979.

J. B. Kirkhoff,

President, Steel Abrasives, Inc.

[FR Doc. 79–17429 Filed 6–4–79; 8:45 am]

BILLING CODE 6560–01–M

Notices

Federal Register
Vol. 44, No. 109
Tuesday, June 5, 1979

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

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

Proposed Determinations With Regard to the 1980 Wheat, Barley, Rye and Oats Programs and the Special Wheat Acreage Grazing and Hay Program

AGENCY: Agricultural Stabilization and Conservation Service.

ACTION: Proposed Determination.

SUMMARY: The Secretary of Agriculture proposed to make the following determinations with respect to the 1980 crops of wheat, barley and oats: (a) whether barley and oats should be included in the 1980 feed grain program and whether program provisions for barley and oats should be announced concurrent with the wheat announcement; (b) the amount of the 1980 national program acreages; (c) the reduction from previous year's harvested acreage required to guarantee established (target) price protection on the total 1980 planted acreage; (d) whether there should be a set-aside requirement and, if so, the extent of such set-aside; (e) if a set-aside or land diversion program is required, whether a limitation should be placed on planted acreage; (f) whether there should be a land diversion program and, if so, the extent of such diversion and the level of payment; (g) the loan and purchase levels for 1980 crops of wheat, barley, oats and rye; (h) the established (target) prices for wheat, barley, and oats; (i) whether the special wheat acreage grazing and hay program should be implemented; and (j) other related provisions. Most of the above determinations for wheat are required to be made by the Secretary on or before August 15, 1979 in accordance with provisions in sections 107A and 109 of the Agricultural Act of 1949, as amended, and Section 1001 of the Food and Agricultural Act of 1977, as amended.

This notice invites written comments on the proposed determinations.

DATES: Comments must be received on or before August 6, 1979.

ADDRESS: Mr. Jeffress A. Wells, Director, Production Adjustment Division, ASCS, USDA, Room 3630, South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Bruce R. Weber (ASCS) (202) 447–6688.

SUPPLEMENTARY INFORMATION: The following determinations with respect to the 1980 crops of wheat, barley and oats are to be made pursuant to sections 105A, 107A and 109 of the Agricultural Act of 1949, as amended, (hereafter referred to as the "Act") and section 1001 of the Food and Agriculture Act of 1977 (Pub. L. 95–113) as amended, (hereafter referred to as the "1977 Act").

a. *Whether barley and oats should be included in the feed grain program and whether the decision to include barley and oats in the feed grain program should be made concurrent with the announcement of the wheat program decisions.* Section 105A(b)(1)(A) of the Act gives the Secretary discretionary authority concerning the inclusion of barley and oats in the feed grain program. Normally, a decision on the inclusion of barley and oats in the feed grain program is made at the same time the corn and sorghum program decision is made, prior to November 15. However, about 25 percent of the barley grown in the U.S. is planted in the fall. Many producers have expressed concern that with the late feed grain program announcement, it is impossible for them to make adequate plans with respect to their barley plantings in order to comply with program provisions that are announced after the planting of winter barley acreage. Barley and wheat are normally grown in somewhat the same areas and compete for the same acreage.

Interested persons are encouraged to advise the Secretary whether an announcement of the 1980 barley and oats program provisions concurrent with the 1980 wheat program announcement is appropriate and should be considered.

b. *1980 National Program Acreage:* Sections 105A(d)(1) and 107A(d)(1) of the Act requires the Secretary to proclaim a national program acreage for each of the 1978 through 1981 crops of wheat and, if designated by the Secretary, barley and oats. The proclamation for wheat shall be made not later than August 15 and not later than November 15 for barley and oats. The national program acreage shall be the number of harvested acres the Secretary determines (on the basis of an estimated national weighted average farm program payment yield) will produce the quantity (less imports) that he estimates will be utilized domestically and for exports during the 1980–81 marketing year. The national program acreage may be adjusted by an amount the Secretary determines will accomplish a desired increase or decrease in carryover stocks. The Secretary may adjust the national program acreage first proclaimed if he determines it necessary based upon the latest information.

The U.S. wheat and feed grain stock objective is set at 7.5 percent and 5.7 percent, respectively, of the world food and feed grain consumption, amounts judged to be our "fair" share of world wheat and feed grain stocks. Using this formula, our maximum 1980–81 ending stock objective is approximately 32 million metric tons (1,170 million bushels) for wheat and 42 million metric tons (1,650 million bushels corn equivalent) for feed grains.

Estimates of the national program acreage for the 1980 program year are requested from interested persons together with appropriate explanatory material. Comments on the appropriate level of wheat and feed grain stocks are also requested.

c. *Voluntary reduction from previous year's harvested acreage.* Sections 105A(d)(3) and 107A(d)(3) of the Act provide that the 1980 acreage eligible for payments shall not be reduced by application of an allocation factor (not less than 80 percent nor more than 100 percent) if producers reduce the acreage of wheat and, if designated by the Secretary, barley and oats planted for harvest on the farm from the previous year by at least the percentage recommended by the Secretary in his proclamation of the national program acreage.

The previous year's (1979) acreage will include the acreage actually harvested plus acreage considered harvested which includes (1) prevented

planting acreage, (2) special wheat grazing and hay program acreage and (3) the larger of (a) the amount by which the prior year's acreage was reduced by recommended percentage reduction (i.e., 15 percent for wheat and 30 percent for barley), or (b) the amount of the 1979 set-aside and diversion acreage credited to the crop.

The determination of the 1980 program acreage simultaneously determines the percentage reduction in acreage from 1979 to 1980 that will be required for a producer to qualify for target price protection with respect to the entire acreage planted to the commodity in 1980.

d. *Whether there should be a set-aside for 1980, and if so, the percentage of acreage to be set-aside.* Sections 105(f)(1) and 107(f)(1) of the Act provides that the Secretary shall provide for a set-aside of cropland for wheat or for corn respectively, if he determines that the total supply of wheat or feed grains will, in the absence of set-aside, likely be excessive taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency. The Secretary is required to announce a set-aside program not later than August 15, 1979, for wheat and not later than November 15, 1979, for barley and oats, if designated by the Secretary. If a set-aside of cropland is in effect, then as a condition of eligibility for loans, purchases, and payments, producers must set-aside and devote to conservation uses an acreage of cropland equal to a specified percentage of the acreage of wheat, barley and/or oats planted for harvest in 1980. Carryover wheat stocks at the end of the 1978–79 marketing year (May 31, 1979) are estimated to be near 930 million bushels, down over 20 percent from a year earlier. Average farm prices for the 1978–79 season are over 60 cents per bushel higher than for 1977–78. Although participation in the 1979 set-aside program is expected to be slightly below the 1978 level, demand will likely be about the same as production, thus 1979–80 carryover stocks are likely to remain at near the 1978–79 level with wheat prices rising moderately. However, this assessment is subject to considerable uncertainty.

The 1979 world wheat crop in its very early stages and weather conditions throughout the season could have a significant impact on the final outcome. Assuming favorable worldwide conditions, ending stocks in the U.S. as of June 1, 1980, could climb to over 1.0 billion bushels, while with unfavorable conditions U.S. stocks might decline to under 560 million bushels, therefore, the need for a 1980 set-aside is highly dependent upon developments of the 1979 U.S. and world wheat crop and demand prospects during the next few months.

Prospective plantings of barley and oats are expected to decline 13 percent and 8 percent, respectively. With this reduction in acreage and a likely drop in production, carryover stocks of barley and oats are expected to decline during the 1979–80 marketing year. The need for a barley or oats set-aside is closely tied to the set-aside decision for corn and sorghum. At this early date, it is not clear whether a set-aside will be necessary for feed grains in 1980. Weather conditions both in the U.S. and the rest of the world along with prospective demand over the next several months will highly influence the final decision on the 1980 program.

Interested persons are encouraged to advise the Secretary on the need for a 1980 wheat, barley and oats set-aside program and the appropriate percentage of acreage to be set-aside if deemed necessary, taking into account the above factors.

e. *Limitation on Planted Acreage:* Sections 105A(f)(1) and 107A(f)(1) of the Act authorizes the Secretary to limit acreage planted to wheat, barley and oats, if a set-aside is in effect. Such limitation is required to be applied on a uniform basis to all farms which are participating in the announced programs and are producing wheat, barley and oats. Plantings may also be limited if a land diversion program is announced.

Interested persons are invited to comment on the pros and cons of limiting planted acreage if a set-aside or diversion program is announced.

Determination of whether there should be a land diversion requirement and, if so, the extent of such diversion and level of payment. Sections 105A(f)(2) and 107A(f)(2) of the Act authorizes the Secretary to make land diversion payments to producers of wheat, and if designated by the Secretary, barley and oats, whether or not a set-aside is in effect. Land diversion payments may be made if the Secretary determines they are necessary to assist in adjusting the total national acreage of wheat, barley or oats to desired goals. If land diversion payments are made, producers will be required to devote to approved conservation uses an acreage of cropland equal to the amount of such land diversion. Land diversion payment levels will be determined by the Secretary.

Land diversion payments may be established at a flat offer rate (specific rate per bushel times farm program yield) or through the submission of bids by producers.

If it is determined necessary to make land diversion payments in 1980 such payments will likely be established at an offer rate rather than through the submission of bids.

Interested persons are encouraged to address the need for the appropriate terms and conditions and the pros and cons of a land diversion program either in place of or in combination with a set-aside program for 1980.

g. *Loan and Purchase Levels:* (1) *Wheat:* Section 107A(a) of the Act requires the Secretary to make available to producers loans and purchases at not less than $2.35 per bushel for each of the 1978 through 1981 crops of wheat, nor, in excess of 100 percent of parity, as the Secretary determines will maintain its competitive relationship to other grains in domestic and export markets. However, if the Secretary determines that the average price of wheat received by producers in any marketing year is not more than 105 percent of the level of loans and purchases for such marketing year, the Secretary may reduce the level of loans and purchases for the next marketing year by the amount the Secretary determines necessary to maintain domestic and export markets for grain, except that the level of loans and purchases shall not be reduced by more than 10 percent in any year nor below $2.00 per bushel.

The loan and purchase level for the 1978 and 1979 crops of wheat has been established at $2.35 per bushel.

(2) *Barley, Oats and Rye:* Section 105A(a)(2) of the Act requires the Secretary to make available to producers loan and purchases on each of the 1977 through 1981 crops of barley, oats and rye, respectively, at such level as the Secretary determines is fair and reasonable in relation to the level that loans and purchases are made available for corn, taking into consideration the feeding value of such commodity in relation to corn and other factors specified in section 401(b) of the Act. These factors are (1) the supply of the commodity in relation to demand, (2) the price levels at which other commodities are being supported and, in the case of feed grains, the feed values of such grains in relation to corn, (3) the availability of funds, (4) the perishability of the commodity, (5) the importance of the commodity to agriculture and the national economy, (6) the ability to dispose of stocks acquired through a price support operation, (7) the need for

offsetting temporary losses of export markets and (8) the ability and willingness of producers to keep supplies in line with demand. Loan and purchase levels for the 1978 and 1979 crops of barley, oats, and rye were established at $1.63, $1.03, and $1.70 per bushel, respectively.

Comments on the appropriate level of loans and purchases for the 1980 crops of wheat, barley, oats, and rye, taking into account the above factors are requested.

(h) *Established "Target" Price* (1) *Wheat:* Section 107A (b)(1)(A) of the Act provides that the Secretary shall make available to producers payments for the 1980 crop of wheat based on an established (target) price. The 1979 established (target) price as specified by statute was computed to be $2.98 per bushel, however, that level was increased to $3.40 under authority of section 1001(b) of the 1977 Act to compensate producers for participation in the 1979 set-aside program. The 1980 established (target) price for wheat shall be the 1979 target price ($2.98 per bushel) adjusted to reflect any change in (i) the average adjusted cost of production for the crop years 1978 and 1979 from (ii) the average cost of production for the crop years 1977 and 1978. The adjusted cost of production for each of the years shall be determined by the Secretary and shall be limited to (a) variable costs, (b) machinery ownership costs, and (c) general farm overhead costs.

Section 1001(b) of the 1977 Act, as amended, provides that whenever a set-aside is in effect the Secretary may increase the established (target) price for wheat by an amount he determines appropriate to compensate producers for participation in such set-aside.

The established (target) price for the 1980 crop of wheat is largely dependent upon the resulting yield per planted acre from the 1979 crop. Based on the current cost of production estimates and an estimated 1979 wheat yield per planted acre of 27.1 bushels the 1980 established (target) price would compute to be approximately $3.10 per bushel. However, if a set-aside is announced the established (target) price could be increased to compensate producers for participation in such set-aside.

2. *Barley and Oats:* Section 105A(b)(1) of the Act requires that the payment rate for barley and oats, if designated by the Secretary, shall be such rate as the Secretary determines fair and reasonable in relation to the rate at which payments are made available for corn. The payment rate for corn is based upon the amount by which the higher of (a) the national average price received by farmers during the first five months of the marketing year for such crop or (b) the loan level is less than the established (target) price. The established (target) price for corn for 1980 is the established (target) price for 1979 adjusted to reflect any change in (a) the average adjusted cost of production for the two crop years immediately preceding the year for which the determination is made from (b) the average adjusted cost of production for the two crop years immediately preceding the year previous to the one for which the determination is made. The adjusted cost of production is limited by statute to the following factors: (a) variable costs, (b) machinery ownership costs, and (c) general farm overhead costs.

If established (target) prices for barley and oats are announced at the same time as the wheat target price is announced, such prices will be computed upon the same cost of production factors which are used for computing the established (target) price for corn. This is considered to provide fair and reasonable payment rates for barley and oats in relation to the rate at which payments are made available for corn.

No target price was established for oats under the 1978 and 1979 programs. The 1979 target price for barley was computed at $2.22 per bushel but the price was adjusted upward under the authority of section 1001(b) of the 1977 Act, as amended, to $2.40 per bushel to compensate producers of barley for participation in the 1979 barley set-aside program.

i. *Special Wheat Acreage Grazing and Hay Program:* Section 109 of the Act authorizes the Secretary to administer a special wheat acreage grazing and hay program in each of the crop years 1978 through 1981. Under this special program, a producer would be permitted to designate, under regulations established by the Secretary, a portion of the acreage on the farm intended to be planted to wheat, feed grains, or upland cotton for harvest, not in excess of 40 percent of the total intended plantings or 50 acres, whichever is greater. The designated acreage shall be planted to wheat (or some other commodity other than corn or sorghum) and used by the producer for grazing purposes or hay rather than for commercial grain production. The Secretary shall pay producers participating in the special program an amount determined by multiplying the farm program payment yield for wheat, by the number of acres designated in the special program, by a rate of payment determined by the Secretary to be fair and reasonable. The special program was administered for both the 1978 and 1979 crops of wheat. The payment rate for 1979 shall be an amount which is equal to the deficiency payment rate to be determined in December, 1979, for the 1979 crop of wheat.

Interested persons are encouraged to comment on the need for this program and the appropriate rate of payment.

j. *Other Related Provisions:* The Act also requires a number of other determinations in order to carry out the wheat and feed grain loan and purchase program such as (1) CCC minimum resale price (2) commodity eligibility, (3) storage requirements, (4) premiums and discounts for grades, classes, and other qualities, and (5) such other provisions as may be necessary to carry out the programs. Prior to determining the provisions of the 1980 wheat, barley, rye, and oats program, consideration will be given to any data, views, and recommendations that may be received relating to the above items.

Comments will be made available for public inspection at the Office of the Director during regular business hours (8:15 a.m. to 4:45 p.m.).

Executive Order 12044 (43 FR 12661, March 24, 1978) requires at least a 60 day public comment period on any proposed significant regulations. Accordingly, comments must be received by August 6, 1979, in order to be assured of consideration.

Note.—This proposed action has been determined significant under the USDA criteria implementing Executive Order 12044. An approved Draft Impact Analysis is available from Bruce R. Weber (ASCS) 202–447–6688.

Signed at Washington, D.C. on May 31, 1979.

Stewart W. Smith,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 79-17473 Filed 6-4-79; 8:45 am]

BILLING CODE 3410-05-M

Commodity Credit Corporation

[Amendment 2]

Loan Programs—1973 and Subsequent Crop Price Support Programs and Farm Storage and Drying Equipment Loan Program; Announcement of Interest Rate

The revised announcement by Commodity Credit Corporation published in the issue of the **Federal Register** of Tuesday, June 13, 1978, at page 25453, as amended in the issue of

July 31, 1978, at page 33276, of the rate of interest applicable to price support programs on 1973 and subsequent crops or production and to financing the purchase or construction of farm storage facilities and drying equipment is hereby amended to (1) delete the reference to interest rates for 1978 crop upland cotton loans which, in effect, retroactively established for cotton the same interest rate applicable to other commodities, (2) to announce the interest rate on farm storage and drying equipment loans made on applications received on or after March 22, 1979, and (3) to announce the interest rate on 1979 crop commodity loans.

Paragraph A 1 (g) is revised to read as follows:

(g) For 1978 crops, at the per annum rate of 7 percent from the date of disbursement until date of repayment.

Paragraph A 1 (h) is revised to read as follows:

(h) For 1979 crops, at the per annum rate of 9 percent from the date of disbursement until date of repayment.

Paragraph B(2) is revised to read as follows:

2(a) Loans disbursed by CCC on or after April 1, 1977, for which applications were received prior to March 22, 1979, shall bear interest at the per annum rate of 7.0 percent from the date of disbursement until date of repayment; (b) Loans disbursed on applications received on or after March 22, 1979, shall bear interest at the per annum rate of 10.5 percent from the date of disbursement until date of repayment; a different interest rate may be subsequently announced for new loans.

(Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c); sec. 401 (a) and (b), 63 Stat. 1051, as amended (7 U.S.C. 1421 (a) and (b)).)

Signed at Washington, D.C., May 29, 1979.

Stewart N. Smith,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 79-17321 Filed 6-4-79; 8:45 am]

BILLING CODE 3410-05-M

Forest Service

Snake Wild and Scenic River; Notice of Classification, Interim Management Plan and Boundaries

Pursuant to the authority delegated to the Chief, Forest Service by the Secretary of Agriculture in 7 CFR 2.60, the classification, boundaries, and interim management plan for the Snake Wild and Scenic River are established as hereinafter set forth.

Introduction

Public Law 94-199, December 31, 1975, amended Public Law 90-542, October 2, 1968, "The Wild and Scenic Rivers Act" hereinafter referred to as "The Act," designating the Snake River as part of the National Wild and Scenic River System.

The portion of the Snake River designated as a component of the National Wild and Scenic Rivers System extends from Hells Canyon Dam on the Idaho-Oregon border line downstream to an eastward extension of the north boundary of Section 1, T. 5 N., R. 47 E., Willamette Meridian, a total distance of 67.5 miles. The river is to be administered by the Forest Service of the U.S. Department of Agriculture.

Public Law 94-199 establishing the Snake Wild and Scenic River required that detailed boundary descriptions be published in the **Federal Register.** The Act requires that a development plan be prepared in accordance with their respective classification. This document is designed to meet these requirements. The detailed management plan for the river will be included in the Comprehensive Management Plan developed for the Hells Canyon National Recreation Area. The Snake Wild and Scenic River is an integral part of the entire 662,000 acre Recreation Area.

Information concerning the Snake River may be obtained by writing the Forest Supervisor, Payette National Forest at McCall, Idaho; Nezperce National Forest at Grangeville, Idaho; or Wallowa-Whitman National Forest at Baker, Oregon.

River Boundaries

Several factors determined the location of the river boundaries. The Act limits the area within the boundaries to not more than an average of 320 acres per mile. With the length of 67.5 miles to be included within the boundaries, a maximum area of 21,600 acres is possible.

Of primary importance is the nature and condition of the land area seen from the river or riverbank. Protection of this primary viewed area is one of the principle management objectives. The improvements and mandate land modifications associated with early homesteads along the Snake River are historically connected to the Snake River and its culture. They have been included within the river boundaries. The areas impacted by river oriented activities are included within the boundaries for uniform management. Potential recreation sites are also included. Many side drainages were included because they were use areas by prehistoric and historic cultures.

Contour lines were used as a boundary on much of the Snake River because they were a means of delineating a boundary through the large amounts of unsurveyed land which lack definable subdivisions. They have been established using the Oregon State Plane Grid System (North Zone) tied to the numerous benchmarks established along the Snake River by the U.S. Geological Survey and the U.S. Corps of Engineers. Any given point may be determined precisely with various engineering survey instruments. Several boundary segments in the lower 30 miles of the Wild and Scenic River were established using legal subdivision definitions. Ridgetops and natural features are not generally available along the Snake River for boundaries. The Snake River Canyon ranges from 3,000 to 7,000 feet in depth over the length of the Wild and Scenic Rivers segment. On the basis of the above considerations, the river boundaries contain a total of 17,546 acres, an average of 260 acres per river mile.

Refer below for the legal description of the boundary and availability of a map showing these boundaries.[1]

River Classification and Description

Wild

Class Definition. A wild river area is free of impoundments and generally inaccessible except by trail, with watersheds or shorelines essentially primitive and water unpolluted. It represents a vestige of primitive America.

Description. One section of the river is classified as wild. It begins at Hells Canyon Dam (river mile 247.7) and ends at Upper Pittsburg Landing (river mile 216.2). This section includes 31.5 miles. This section is in a near natural condition, it includes some beautiful and hazardous white water. The variation in flows below Hells Canyon Dam gives variety to the experience depending on the season of the year. Below Rush Creek rapids at River Mile 230, numerous commercial and private jetboats are encountered. Two operating sheep ranches exist in the lower eight miles of this section. Spectacular views are available of the adjacent Hells Canyon Wilderness and the high rimrock country. Other views are of a narrow rocky canyon with sheer walls rising hundreds of feet out of the water.

[1] Maps filed with the Office of the Federal Register as part of the original document.

Scenic

Class Definition. A scenic river area is free of impoundment with shoreline or watershed still largely primitive, and shoreline largely undeveloped but accessible in places by roads. Long stretches of conspicuous or well traveled roads may not parallel river in close proximity.

Description. The portion of the Snake River from upper Pittsburg Landing (river mile 216.2) to the Wallowa-Whitman National Forest boundary in Oregon (river mile 180.1) is included in this section.

The river downstream from upper Pittsburg Landing begins to slow while still flowing through many rapids and deep, rocky canyons. Swift currents and deep eddys face the floater. Numerous commercial and private jet boaters are encountered in this area. Several points along this section are accessible by roads on the Idaho and Oregon side. However, these roads do not parallel the river for more than a quarter of a mile. Visibility of these roads from the river is limited. The bulk of the private lands along the river are located in this section on the Idaho side. Several large ranch operations dating from the early 1900's exist. Boaters and hikers commonly see herds of cattle grazing along the river. the Sammon River of Idaho joins the Snake at River Mile 188.2 in this section.

River Classification

Hells Canyon Dam to Pittsburg Landing	31.5 miles
Pittsburg Landing to River mile 180.1	36 miles
Total	67.5 miles

Current river Uses

The entire wild and scenic river is presently used for a variety of boating uses. It includes floating in canoes, Kayaks and rubber rafts as well as motorized boat use. The motorized boat use in the area above the Salmon River confluence is principally jet boat use. Jet boaters generally stop at Johnson Bar. However, some well equipped jet boaters do go all the way to Hells Canyon Dam. During 1977, an estimated 14,000 floaters used the river. About 60 percent of these saw the river with commercial outfitters. There are also numerous commercial jet boat outfitters using the river.

Hiking and horsebacking are growing in popularity in the river zone. There are two developed trails along the river. Neither of these are a through trail. A jet boat guide operating from Hells Canyon Dam delivers passengers six miles downstream to either the Oregon or Idaho side where the trails start. The Idaho trail travels some 25 miles to Pittsburg Landing and the Oregon trail runs approximately 50 miles to Dug Bar.

No bridges exist across the Snake River. There are no developed campsites along the river sections. Trout and bass fishing on the Snake River is considered excellent. People from Boise and Lewiston, Idaho and Baker, La Grande and Enterprise, Oregon fish the Snake River. The steelhead fishery is being reestablished and is growing in popularity. Fishing is primarily done from power and floatboats along the river and from the banks of the river downstream from Hells Canyon Dam.

Interim Management Objectives—Entire River

The Act states that:

"Each component of the National Wild and Scenic River System shall be administered in such a manner as to protect and enhance the values which caused it to be included in said system without, insofar as is consistent therewith, limiting other uses that do not substantially interfere with public use and enjoyment of these values. In such administration primary emphasis shall be given to protecting its esthetic, scenic, historic, archaeologic, and scientific features. Management plans for any such component may establish varying degrees of intensity for its protection and development based on the special attributes of the area."

The wild and scenic portions of the Snake River located within the Hells Canyon National Recreation Area will be managed to:

Maintain and protect the free-flowing nature of the river,

Preserve the natural beauty and historic and archaeologic values for this and future generations, and

Enhance the recreational and ecologic values and to provide for the public enjoyment of the area.

Management activities undertaken while the Hells Canyon National Recreation Area Comprehensive Management Plan (CMP) is being developed will protect these values. The CMP will provide specific management direction regarding recreation experience objectives, developments, roads and trails and other activities.

Coordination With Others

State

The administration of the river involves coordination with agencies of two different states—Idaho and Oregon. The organization and responsibilities in each of the states is similar but slightly different. Working with these different state organizations will require coordination. In both states the game and fish organization has direct responsibility for administering the fish and wildlife resources of the state. Each state has various agencies involved in such activities as water quality, boating safety, and land use activities.

The land between the high water marks is state property. Cooperative agreements are being developed between the states of Idaho and Oregon and the Forest Service, USDA for continuity of management along the Snake River.

River Map

Snake River Map—on file with:

Forest Supervisor, Nezperce National Forest, Grangeville, Idaho.
Forest Supervisor, Payette National Forest, McCall, Idaho.
Forest Supervisor, Wallowa-Whitman National Forest, Baker, Oregon.
Regional Forester, Region 1, Forest Service, U.S. Department of Agriculture, Missoula, Montana.
Regional Forester, Region 4, Forest Service, U.S. Department of Agriculture, Ogden, Utah.
Regional Forester, Region 6, Forest Service, U.S. Department of Agriculture, Portland, Oregon.

Therefore, the boundaries for the Snake Wild and Scenic River are established as described and shown on the following maps.

Dated: May 23, 1979.

John R. McGuire,
Chief.

Snake River Boundary Description

The official boundary for this river is that exterior line which encompasses the following described area.

Bearings, distances and coordinate ties referenced in the following description are based on the Oregon State Plane Grid System (North Zone). Mining claim boundaries have been included although record bearing, distance, and monuments will prevail.

Oregon Section

Wallowa-Whitman National Forest, Willamette Meridian, Scenic River

Beginning at the intersection of the thread of the Snake River and an eastward extension of the north boundary of Section 1, T. 5N., R. 47E., W.M. which is the Oregon-Idaho state line; thence west along the eastward extension of the north boundary of Section 1 to the intersection with the 1200 foot contour line mean sea level (1927 North American datum); thence southerly along the 1,200 foot contour

line to the intersection of the 1200 foot contour line with an east-west line with North coordinate of *850813.662;* thence S. 12°45'E. approximately 610 feet.

Crossing Coon Creek to a point at the intersection of the 1200 foot contour line with an east-west line with north coordinate of *850219.008;* thence along the 1200 foot contour line in a southeasterly direction to an intersection with the line between corners 1 and 2 of M.S. 695, Magpie Claim; thence S. 68°15' W., along the claim boundary to corner 1; thence S. 15°00' E. along the claim boundary to corner 4; thence N 68°15' E. along the claim boundary to the intersection with the 1200 foot contour line; thence along the 1200 foot contour line in a southerly direction to the intersection of the contour line with an east-west line with north coordinate of *835535.639;* thence N. 86°00' E. approximately 278 feet crossing Cook Creek to the intersection of the 1200 foot contour line with an east-west line with north coordinate of *835555.092;* thence northeasterly along the 1200 foot contour line to the intersection of the contour line with an east-west line with north coordinate of *829756.906.* Thence S. 80°45' E. approximately 347 feet, crossing Cherry Creek to the intersection of the 1200 foot contour line with the east-west line with a north coordinate of *829701.259.* Thence northeasterly along the 1200 foot contour line to the intersection of an east-west line with a north coordinate of *825863.818;* thence southeasterly along the 1200 foot contour line to the intersection of the contour line with the east-west line with north coordinate of *818724.867;* thence S. 40°00' E. approximately 530 feet, crossing Chalk Creek to the intersection with the 1200 foot contour line; thence southeasterly along the 1200 foot contour line to the intersection of an east-west line with a north coordinate of *812417.650;* thence S. 36°15' E. approximately 435 feet, crossing Moutain Sheep Creek to the intersection of the 1200 foot contour line with the east-west line with north coordinate of *812068.845;* thence southerly along the 1200 foot contour line to the intersection with the east-west line with north coordinate of *810618.934;* thence S. 44°45' E. approximately 540 feet, crossing a minor draw to the intersection of the 1200 foot contour line with an east-west line with north coordinate of *810235.747;* thence southeasterly along the 1200 foot contour line to the intersection of the contour line with the west line of Lot 5, Section 14, T. 4N., R. 48E., W.M.; thence south to the section line common to Sections 14 and 23; thence east to the corner common to Sections 13, 14, 23, and 24; thence south to the N.1/16 corner between Section 24, T. 4N., R. 48E., and Section 19, T. 4N., R. 49E.; thence east to the C–N 1/16 corner of Section 19, thence north to the 1/4 corner common to Sections 18 and 19; thence east to the E. 1/16 corner common to Sections 18 and 19; thence north to the SE 1/16 corner of Section 18; thence east to the S. 1/16 corner common to Sections 17 and 18; thence east to the S. 1/16 corner between Sections 16 and 17; thence east to the S.W. 1/16 corner of Section 16; thence south to the W. 1/16 corner between Sections 16 and 21; thence east to the 1/4 corner between Sections 16 and 21; thence south to the C–W–NE 1/64 of Section 21; thence east to the N.E. 1/16 corner of Section 21; thence south to the S.E. 1/16 corner of Section 21; thence east to the C–E–SE 1/64 corner of Section 21; thence south to the E–E 1/64 corner between Sections 21 and 28; thence east along the section line between Sections 21 and 28 to the intersection with the 1400 foot contour line; thence southerly along the 1400 foot contour line to the intersection of the contour line with an east-west line with a north coordinate of *799165.038;* thence S. 33°00' E. approximately 260 feet crossing Fence Creek to the intersection of the 1400 foot contour line with a north-south line with east coordinate of *2973572.461;* thence southeasterly along the 1400 foot contour line to the intersection of the contour line with an east-west line with north coordinate of *795742.832;* thence S. 36°15' E. approximately 1024 feet crossing Dug Creek to a point at the intersection of the 1400 foot contour line with a north-south line with east coordinate of *2976684.189;* thence southerly along the 1400 foot contour line to the intersection of the contour line with east-west line with a north coordinate of *794312.781;* thence S. 47°00' E. approximately 861 feet crossing Robinson Gulch to a point at the intersection of the 1400 foot contour line with a north-south line with an east coordinate of *2978007.152;* thence along the 1400 contour line to the intersection of the contour line with an east-west line with north coordinate of *793446.962;* thence S. 72°00' E. approximately 664 feet, crossing a minor draw to a point at the intersection of the 1400 foot contour line with a north-south line with east coordinate of *2979012.682;* thence easterly along the 1400 foot contour line to the intersection of the contour line with a north-south line with east coordinate of *2982655.575;* thence N. 70°30' E. approximately 707 feet crossing Trail Gulch to a point at the intersection of the 1400 foot contour line with an east-west line with north coordinate of *793370.190;* thence easterly along the 1400 foot contour line to the intersection with a north-south line with east coordinate of *2984394.535;* thence S. 61°45' E. approximately 1170 feet, crossing Thorn Creek to a point at the intersection of the 1400 foot contour line and an east-west line with north coordinate of *794463.089;* thence easterly along the 1400 foot contour line to the intersection of the contour line with an east-west line with north coordinate of *793750.160;* thence N. 76°45' E. approximately 1246 feet to a point with Oregon (North Zone) grid coordinates of *2994855.207* east and *794036.264* north; thence N. 85°15' E. approximately 1705 feet to a point with Oregon (North Zone) grid coordinates of *2992762.996* east and *794180.041* north; thence S. 81°30' E., approximately 1305 feet to a point with Oregon (North Zone) grid coordinates of *2994054.318* east and *793987.513* north; thence S. 58°30' E. approximately 939 feet, crossing Bar Creek to a point at the intersection of the 1400 foot contour line with a north-south line with east coordinates of *2994855.207;* thence easterly along the 1400 foot contour line to a point at the intersection with an east-west line with north coordinate of *793290.107;* thence S. 40°00' E. approximately 914 feet, crossing a minor draw to a point at the intersection of the 1400 foot contour line with an east-west line with a north coordinate of *2997457.107;* thence southeasterly along the 1400 foot contour line to a point at the intersection with an east-west line with north coordinate of *786537.827;* thence S. 57°30' E. approximately 706 feet, crossing Bob Creek to the intersection of the 1400 foot contour line with a north-south line with east coordinate of *3004448.614;* thence southeasterly along the 1400 foot contour line to the intersection of the 1400 foot contour line with an east-west line with north coordinate of *784174.190;* thence S. 60°30' E., approximately 1009 feet, crossing Copper Creek to the intersection of the 1400 foot contour line and a north-south line with east coordinate of *3007980.883;* thence southerly along the 1400 foot contour line to the intersection of the 1400 foot contour line with an east-west line with north coordinate of *775469.755;* thence S. 16°00' W. approximately 500 feet, crossing Lone Pine Creek to a point at the intersection of the 1400 foot contour line and an east-west line with north coordinate of *774988.982;* thence southerly along the 1400 foot contour line to the intersection of the 1400 foot contour line with an east-west line with north coordinate of *770819.348;* thence S.

01°15' W. approximately 845 feet crossing Lookout Creek to the intersection of the 1400 foot contour line and an east-west line with north coordinate of *769974.674*; thence southerly along the 1400 foot contour line to a point at the intersection of the 1400 foot contour line with an east-west line with north coordinate of *762954.555*; thence S. 15°30' E. approximately 714 feet, crossing a minor draw to the intersection of the 1400 foot contour line with an east-west line with north coordinate of *762266.381*; thence southeasterly along the 1400 foot contour line to the intersection of the 1400 foot contour line with an east-west line with north coordinate of *761802.410*; thence S. 33°00' E. approximately 941 feet, crossing Camp Creek to the intersection of the 1400 foot contour line with a north-south line with east coordinate of *3013424.126*; thence southerly along the 1400 foot contour line to the intersection of the contour line with Somers Creek; thence northeasterly along the 1400 foot contour line to the intersection of the contour line and a north-south line with east coordinate of *3014164.852*; thence southeasterly along the 1400 foot contour line to the intersection of the contour line and an east-west line with north coordinate of *757544.585*; thence S. 64°15' E. approximately 440 feet, crossing a minor draw to the intersection of the 1400 foot contour line with an east-west line with north coordinate of *757353.573*; thence southeasterly along the 1400 foot contour line to the intersection with an east-west line with north coordinate of *755758.962*; thence S. 41°45' E. approximately 428 feet, crossing a minor draw to the intersection of the 1400 foot contour line with an east-west line with north coordinate of *755439.528*; thence southeasterly along the 1400 foot contour line to the intersection of the contour line with an east-west line with north coordinate of *754030.813*; thence S. 26°00' E. approximately 522 feet, crossing a minor draw to the intersection of the 1400 foot contour line with a north-south line with east coordinate of *3019746.418*; thence southeasterly along the 1400 foot contour line to the intersection of the contour line with an east-west line with north coordinate of *752918.294*; thence S. 51°00' E. approximately 567 feet, crossing McCarty Creek to the intersection of the 1400 foot contour line with a north-south line with east coordinate of *3020542.885*; thence southeasterly along the 1400 foot contour line to the intersection of the contour line with an east-west line with north coordinate of *751638.689*; thence S. 59°30' E. approximately 344 feet, crossing Davis Creek to the intersection of the 1400 foot contour line with a north-south line with east coordinate of *3022111.757*; thence southeasterly along the 1400 foot contour line to the intersection of the contour line with an east-west line with north coordinate of *748389.895*; thence south approximately 341 feet, crossing a minor draw to the intersection of the 1400 foot contour line with an east-west line with north coordinate of *748048.576*; thence southwesterly along the 1400 foot contour line to the intersection of the contour line with an east-west line with north coordinate of *747780.235*; thence south approximately 2570 feet, crossing Pleasant Valley Creek to the intersection of the 1600 foot contour with an east-west line with north coordinate of *745209.755*; thence southerly along the 1600 foot contour line to the intersection of the contour line with an east-west line with north coordinate of *743376.000*; thence S. 42°15' E. approximately 3071 feet, crossing Spring Creek to a point with Oregon (North Zone) grid coordinates of *3028253.203* east and 741065.545 north; thence S. 44°45' W. approximately 1050 feet to the intersection of the 1600 foot contour line with the east-west line with north coordinate of *740298.199*; thence southwesterly along the 1600 foot contour line to the intersection of the contour line and Pittsburg Creek; thence northeasterly along the 1600 foot contour line to the intersection of the contour line with the east-west line with north coordinate *739983.917*; thence southeasterly along the 1600 foot contour line to the intersection of the contour line with latitude line 45°37'04" west which is a point due west of the mouth of the unnamed draw just above Upper Pittsburg Landing on the Idaho side of the Snake River; thence east, descending to the thread of the Snake River which is the Oregon-Idaho state line.

Idaho Section

Nezperce National Forest, Boise Meridian, Scenic River

Beginning at the intersection of the thread of the Snake River and latitude line 45°37'04" W. which is the Oregon-Idaho state line; thence due east to the mouth of the unnamed draw above upper Pittsburg Landing; thence ascending along the unnamed draw approximately 275 feet to the intersection with the 1200 foot M.S.L. (Mean Sea Level) contour line; thence northwesterly along the 1200 foot contour line to the intersection of the contour line with an east-west line with north coordinate of *743780.773*, Kurry Creek, (coordinates based on Oregon Grid System North Zone); thence continuing northwesterly along the 1200 foot contour line to the intersection of the contour line with an east-west line with north coordinate of *747224.620*, West Creek, (coordinates based on Oregon Grid System North Zone); thence continuing northwesterly along the 1200 foot contour line to the intersection of the contour line with an east-west line with a north coordinate of *753033.572* (coordinates based on Oregon Grid System North Zone); thence northerly along the 1200 foot contour line to the intersection of the contour line with the east-west line with north coordinate of *768501.225* (coordinates based on Oregon Grid System North Zone); thence N.16°15' W. approximately 399 feet, crossing Jones Creek to a point at the intersection of the 1200 foot contour line with an east-west line with north coordinate of *768883.798* (coordinate based on Oregon Grid System North Zone); thence northerly along the 1200 foot contour line to the intersection of the contour line and the south boundary of Section 35, T. 28 N., R. 2 W., B.M. which is also the north boundary of the Nezperce National Forest; thence east to the corner common to Sections 35 and 36; thence east to the W.1/16 corner; thence north to the W.1/16 corner between Sections 25 and 36; thence north to the C–W 1/16 of Section 25; thence east to the C 1/4 corner of Section 25; thence north to the C–N 1/16 corner of Section 25; thence west to the N 1/16 corner between Sections 25 and 26; thence north to the corner to Sections 23, 24, 25 and 26; thence north to the 1/4 corner between Sections 23 and 24; thence west to the C–E 1/16 corner of Section 23; thence north to the NE 1/16 corner of Section 23; thence west to the C–N 1/16 corner of Section 23; thence north to the 1/4 corner between Sections 14 and 24; thence west to the corner to Sections 14, 15, 22, and 23; thence north to the S 1/16 corner between Sections 14 and 15; thence west to the SE 1/16 corner of Section 15; thence north to the C–E 1/16 corner of Section 15; thence north to the NE 1/16 corner of Section 15; thence west to the C–N 1/16 corner of Section 15; thence west to the NW 1/16 corner of Section 15; thence north to the W 1/16 corner between Sections 10 and 15; thence west to the corner of Sections 9, 10, 15, and 16; thence north to the S 1/16 corner between Sections 9 and 10; thence west to the SE 1/16 corner of Section 9; thence north to the C–E 1/16

corner of Section 9; thence west to the C ¼ corner of Section 9; thence north to the C–N 1/16 corner of Section 9; thence west to the NW 1/16 corner of Section 9; thence north to the W 1/16 corner between Sections 4 and 9; thence west to the corner to Sections 4, 5, 8, and 9; thence west to the corner to Sections 5, 6, 7, and 8; thence north to the S 1/16 corner between Sections 5 and 6; thence west to the C–S 1/16 corner of Section 6; thence west to the S 1/16 corner of Section 6; thence south to the corner to Sections 1 and 12, T. 28N., R. 3 W., B.M.; thence east to the E 1/16 corner between Sections 1 and 12; thence south to the NE 1/16 corner of Section 12; thence west to the C–N 1/16 corner of Section 12; thence west to the N 1/16 corner between Sections 11 and 12; thence north to the corner to Sections 1, 2, 11, and 12; thence west the E.1/16 corner between Sections 11 and 12; thence north to the SE 1/16 corner of Section 2; thence west to the C–S 1/16 corner of Section 2; thence north to the C ¼ corner of Section 2; thence west to the C–W 1/16 corner of Section 2; thence north to the NW 1/16 corner of Section 2; thence west to the N 1/16 corner between Sections 2 and 3, thence north to the corner to Sections 34 and 35, T. 29N., R. 3W., and Sections 2 and 3, T. 28N., R. 3W.; thence north to the ¼ corner between Sections 34 and 35, T. 29N., R. 3W., B.M.; thence west to the C–E 1/16 corner of Section 34; thence north to the NE 1/16 corner of Section 34; thence west to the C–N 1/16 corner of Section 34; thence north to the ¼ corner between Sections 27 and 34; thence north to the C ¼ corner of Section 27; thence west to the C–W 1/16 corner of Section 27; thence north to NW 1/16 corner of Section 27; thence west to the N 1/16 corner between Sections 27 and 28; thence west to the NE 1/16 corner of Section 28; thence north to the E 1/16 corner between Sections 21 and 28; thence west to the corner to Sections 20, 21, 28, and 29; thence west to the corner to Sections 19, 20, 29 and 30; thence west to the E 1/16 corner between Sections 19 and 30; thence south to the NE 1/16 corner of Section 30; thence west to the C–N 1/16 corner of Section 30; thence south to the C ¼ corner of Section 30; thence west to the ¼ corner between Sections 25 and 30, T. 29N., R. 3 and 4W., B.M.; thence west to the C–E 1/16 corner of Section 25, T. 29N., R. 4W., B.M.; thence north to the NE 1/16 of Section 25; thence west to the C–N 1/16 corner of Section 25; thence west to the NW 1/16 corner of Section 25; thence north to the W 1/16 corner between Sections 24 and 25; thence west to the corner to Sections 23, 24, 25 and 26; thence north to the corner to Sections 13, 14, 23, and 24; thence north to the corner to Sections 11, 12, 13, and 14; thence west to the ¼ corner between Sections 11 and 14; thence north to the C ¼ of Section 11; thence west to the C–W.1/16 corner of Section 11; thence north to the NW 1/16 corner of Section 11; thence west to the N 1/16 corner between Sections 10 and 11; thence north to the corner to Sections 2, 3, 10 and 11; thence north to the S 1/16 corner between Sections 2 and 3; thence west to the SE 1/16 corner of Section 3; thence north to the C–E 1/16 corner of Section 3; thence west to the C ¼ corner of Section 3; thence north to the C–N 1/16 corner of Section 3; thence west to the NW 1/16 corner of Section 3; thence north to the W 1/16 corner of Section 3; thence west to the Section corner to Sections 3 and 4; thence west to the Section corner to Sections 33 and 34, T. 30N., R. 4W.; thence north to the S 1/16 corner between Sections 33 and 34; thence west to the SE 1/16 corner of Section 33; thence north to the C–N–SE 1/64 corner of Section 33; thence west to the C–N–S 1/64 corner of Section 33; thence north to the C ¼ corner of Section 33; thence north to the C–S–N 1/64 corner of Section 33; thence west to the C–S–N 1/64 corner of Section 33; thence north to the NW 1/16 corner of Section 33; thence north to the W 1/16 corner between Sections 28 and 33; thence west to the corner to Sections 28, 29, 32, and 33; thence north to the S 1/16 corner between Sections 28 and 29; thence west to the SE 1/16 corner of Section 29; thence north to the C–E 1/16 corner of Section 29; thence west to the C ¼ corner of Section 29; thence north to the ¼ corner between Sections 20 and 29; thence west to the E–W 1/64 corner between Sections 20 and 29; thence north to the C–E–W.1/64 corner of Section 20; thence west to the C–W. 1/16 corner of Section 20; thence north to the W 1/16 corner between Sections 17 and 20; thence north to the C–W 1/16 corner of Section 17; thence west to the C–W–W 1/64 corner of Section 17; thence north to the C–W–NW 1/64 corner of Section 17; thence west to the N 1/16 corner between Sections 17 and 18; thence north to the corner to Sections 7, 8, 17, and 18; thence west to the E–E 1/64 corner between Sections 7 and 18; thence north 1300 feet, more or less, to the intersection of this line with the eastward extension of the north boundary of Section 1, T. 5N., R. 45E., W.M.; thence west along the eastward extension of the section line to the thread of the Snake River which is the Oregon-Idaho state line and the point of beginning.

Idaho Section

Payette and Nez Perce National Forests, Boise Meridian, Wild River

Beginning at the intersection of the Hells Canyon Dam and the thread of the Snake River which is the Oregon-Idaho state line; thence east of along the lower edge of the dam to the intersection with the mean high water line of the Snake River; thence northeasterly along the mean high water line to the intersection with a ridge on the north side of Deep Creek; thence northeasterly ascending the ridge to the intersection of the line with the 2000 foot M.S.L. (Mean Sea Level) contour line; thence northerly along the 2000 foot contour line the intersection of an east-west line with north coordinate of *606351.286*, coordinates based on Oregon Plane Grid System, North Zone; thence northeasterly along the 2000 foot contour line to the intersection of the contour line with an east-west line with north coordinate of *610029.596;* then N.2°30' W. approximately 900 feet, crossing Brush Creek to the intersection of the 2000 foot contour line with the east-west line with north coordinate of *610929.22;* thence northerly along the 2000 foot contour line to the intersection of the contour line with an east-west line with north coordinate of *626378.167;* thence northeasterly along the 2000 foot contour line to the intersection of the contour line with a north-south line with east coordinate of *2988515.579;* thence southeasterly along the 2000 foot contour line to the intersection with Granite Creek; thence northwesterly along the 2000 foot contour line to the intersection of the contour line with an east-west line with north coordinate of *636662.930;* thence northeasterly along the 2000 foot contour line to the intersection of the contour line with the east section line of Section 1, T. 23N., R. 3W., B.M.; thence north along the section line to the intersection of the section line with the 1680 foot contour line; thence easterly along the 1680 foot contour line to the intersection of the contour line with Three Creek; thence northerly along the 1680 foot contour line to the intersection of the contour line with the south boundary of Section 30, T. 24N., R. 2W., B.M.; thence east along the section line to the intersection of the section line with the 2000 foot contour line; thence northerly along the 2000 foot contour line to the intersection of the contour line with a north-south line with east coordinate of *2998007.181;* thence easterly along the 2000 foot contour line to the Bernard Creek; thence northwesterly along the 2000 foot contour line to the intersection of the

contour line with the east boundary of the west 1/2 of Section 20, T. 24N., R. 2W., B.M.; thence north along this line to the intersection with the 1680 foot contour line; thence northeasterly along the 1680 foot contour line to the intersection of the contour line with a north-south line with east coordinate of *3003745.820;* thence N.05°15′ E. approximately 1560 feet, crossing Bills Creek to the intersection of the 1600 foot contour line with an east-west line with north coordinate of *667247.784;* thence northeasterly along the 1600 foot contour line to the intersection of the contour line with a north-south line with east coordinate of *3012866.374;* thence southeasterly along the 1600 foot contour line to Sheep Creek; thence northwesterly along the 1600 foot contour line to the intersection of the contour line with an east-west line with north coordinate of *683308.477;* thence N.07°00′ E. approximately 385 feet, crossing Steep Creek to the intersection of the 1600 foot contour line with an east-west line with north coordinate of *683690.420;* thence northerly along the 1600 foot contour line to the intersection of the contour line with an east-west line with north coordinate of *690510.684;* thence N.05°45′ E. approximately 467 feet, crossing Willow Creek to the intersection with the 1600 foot contour line also the intersection with the Hells Canyon Wilderness boundary; thence northerly along the 1600 foot contour line to the intersection of the contour line with an east-west line with north coordinate of *697261.034;* thence N.20°45′ E. approximately 620 feet, crossing Hutton Gulch to the intersection of the 1600 foot contour line with an east-west line with north coordinate of *697798.127;* thence northeasterly along the 1600 foot contour line to the intersection of the contour line with a north-south line with east coordinate of *3015655.796;* thence N.30°15′ E. approximately 860 feet, crossing Caribou Creek to the intersection of the 1600 foot contour line with an east-west line with north coordinate of *700944.845;* thence northeasterly along the 1600 foot contour line to the intersection of the contour line with a north-south line with east coordinate of *3017138.699;* thence N.15°30′ E. approximately 800 feet, crossing an unnamed drainage to the intersection of the 1600 foot contour line with an east-west line with north coordinate of *704333.031;* thence northeasterly along the 1600 foot contour line to the intersection with an east-west line with north coordinate of *710987.360;* thence northwesterly along the 1600 foot contour line to the intersection of the contour line with an east-west line with north coordinate of *712629.445;* thence easterly along the 1600 foot contour line to the intersection of the contour line with a north-south line with east coordinate of *3022388.452;* thence northeasterly along the 1600 foot contour line to the intersection of the contour line with a north-south line with east coordinate of *3024675.355;* thence southeasterly along the 1600 foot contour line to Kirkwood Creek; thence northerly along the 1600 foot contour line to the intersection of the contour line with Trail No. 102; thence northeasterly along the upper side of Trail No. 102 to the intersection of the trail with the 1400 foot contour line; thence northeasterly along the 1400 foot contour line to the intersection of the contour line with a north-south line with east coordinate of *3033484.173;* thence northerly along the 1400 foot contour line to the intersection of the contour line with an unnamed draw above upper Pittsburg landing; thence descending the unnamed draw approximately 608 feet to the intersection of the draw with the Scenic River boundary; thence continuing to descend the unnamed draw to the intersection of the draw with the Snake River at latitude line 45°37′04″ W.; thence west along the latitude line to the intersection of the latitude line with the thread of the Snake River, which is the Oregon-Idaho state line.

Snake River, Oregon Section

Wallowa-Whitman National Forest, Willamette Meridian, Wild River

Beginning at the intersection of the thread of the Snake River and latitude line 45°37′04″ W. which is the Oregon-Idaho state line; thence west along the latitude line, crossing the Snake River and ascending the slope approximately 900 feet to the intersection of the latitude line with the 1600 foot contour line; thence southerly along the 1600 foot contour line to the intersection of the contour line with an east-west line with north coordinate of *736882.310*; thence S. 07°30′ W. approximately 513 feet, crossing a minor drainage to the intersection of 1600 foot contour line with a north-south line with east coordinate of *3031608.457*; thence southerly along the 1600 foot contour line to the intersection of the contour line with an east-west line with north coordinate of *735783.792*; thence S. 28°15′ E. approximately 582 feet, crossing a minor drainage to the intersection of the 1600 foot contour line with a north-south line with east coordinate of *3032006.530*; thence southeasterly along the 1600 foot contour line to the intersection of the contour line with an east-west line with north coordinate of *734985.555*; thence S. 24°30′ E. approximately 315 feet, crossing a minor drainage to the intersection of the 1600 foot contour line with an east-west line with north coordinate of *734698.214*; thence southerly along the 1600 foot contour line to the intersection of the contour line with an east-west line with north coordinate of *732857.420*; thence S. 14°30′ E. approximately 545 feet, crossing a minor drainage to the intersection of the 1600 foot contour line with a north-south line with east coordinate of *3032298.403*; thence southwesterly along the 1600 foot contour line to the intersection of the contour line with an east-west line with north coordinate of *731574.761*; thence S. 13°15′ W. approximately 435 feet crossing a minor drainage to the intersection of the 1600 foot contour line with an east-west line with north coordinate of *731162.854*; thence southwesterly along the 1600 foot contour line to the intersection with an east-west line with north coordinate of *729274.213*; thence westerly along the 1600 foot contour line to Durham Creek; thence easterly along the 1600 foot contour line to the intersection of the contour line with an east-west line with north coordinate of *728962.490*; thence southwesterly along the 1600 foot contour line to the intersection of the contour line with a north-south line with east coordinate of *3027560.159*; thence S. 15°00′ W. approximately 1280 feet, crossing Muir Creek and one minor drainage to the intersection of the 1600 foot contour with an east-west line with north coordinate of *724643.023*; thence southerly along the 1600 foot contour line to the intersection of the contour line with a north-south line with east coordinate of *3027410.341*; thence S. 70°00′ W. approximately 575 feet, crossing a minor drainage to the intersection of the 1600 foot contour line with an east-west line with north coordinate of *722174.889*; thence southwesterly along the 1600 foot contour line to the intersection of the contour line with a north-south line with east coordinate of *3026039.529*; thence S. 59°30′ W. approximately 725 feet, crossing a minor drainage to the intersection of the 1600 foot contour line with an east-west line with north coordinate of *721297.811*; thence southwesterly along the 1600 foot contour line to the intersection of the contour line with a north-south line with east coordinate of *3023920.139*; thence S. 39°00′ W. approximately 590 feet, crossing Cougar Creek at the

intersection of the 1600 foot contour line with a north-south line with east coordinate of *3023548.227*; thence southwesterly along the 1600 foot contour line to the intersection of the contour line with a north-south line with east coordinate of *3018197.989*; thence S. 61°30′ W. approximately 750 feet, crossing Corral Creek to the intersection of the 1600 foot contour line with an east-west line with north coordinate of *714417.632*; thence southwesterly along the 1600 contour line to the intersection of the contour line with an east-west line with north coordinate of *713715.073*; thence S. 04°00′ W. approximately 945 feet, crossing Salt Creek to the intersection of the 1600 foot contour line with an east-west line with north coordinate of *712773.802*; thence southerly along the 1600 foot contour line to the intersection of the contour line with a north-south line with east coordinate of *3016545.979*; thence westerly along the 1600 foot contour line to Temperance Creek; thence easterly along the 1600 foot contour line to the intersection of the contour line with an east-west line with north coordinate of *708247.573*; thence southwesterly along the 1600 foot contour line ot the intersection with an east-west line with north coordinate of *704648.735*; thence S. 14°15′ W. approximately 400 feet, crossing a minor drainage to the intersection of the 1600 foot contour line with an east-west line with north coordinate of *704264.053*; thence southwesterly along the 1600 foot contour line to the intersection of the contour line with a north-south line with east coordinate of *3010906.863*; thence S. 35°00′ W. approximately 735 feet, crossing Quartz Creek to the intersection of the 1600 foot contour line with an east-west line with north coordinate of *696670.092*; thence southerly along the 1600 foot contour line to the intersection of the contour line with an east-west line with north coordinate of *685367.022*; thence S. 40°00′ E. approximately 685 feet, crossing Yreka Creek to the intersection of the 1600 foot contour line with a north-south line with east coordinate of *3010403.008*; thence southerly along the 1600 foot contour line to the intersection of the contour line with an east-west line with north coordinate of *669497.202*; thence S. 11°30′ E. approximately 420 feet, crossing a minor drainage to the intersection of the 1600 foot contour line with an east-west line with north coodinate of *669086.545*; thence southerly along the 1600 foot contour line to the intersection of the contour line with an east-west line with north coordinate of *668322.479*; thence S. 06°30′ W. approximately 340 feet, crossing a minor drainage to the intersection of the 1600 foot contour line with an east-west line with north coordinate of *667984.057*; thence southerly along the 1600 foot contour line to the intersection of the contour line with an east-west line with north coordinate of *662781.327*; thence S. 08°15′ E. approximately 580 feet, crossing Waterspout Creek to the intersection of the 1600 foot contour line with an east-west line with north coordinate of *662206.334*; thence southwesterly along the 1600 foot contour line to the intersection of the contour line with an east-west line with north coordinate of *657088.689*; thence S. 42°45′ W. approximately 547 feet, crossing Smooth Hollow to the intersection of the 1600 foot contour line with an east-west line with north coordinate of *656686.704*; thence southwesterly along the 1600 foot contour line to the intersection of the contour line with an east-west line with north coordinate of *654754.609*; thence S. 33°15′ W. approximately 650 feet, crossing Hat Creek to the intersection of the 1600 foot contour line with an east-west line with north coordinate of *654212.487*; thence southwesterly along the 1600 foot contour line to the intersection of the contour line with a north-south line with east coordinate of *2992245.158*; thence S. 39°45′ E. approximately 1685 feet, crossing Saddle Creek to the intersection with the Upper Snake River Trail No. 1786; thence southwesterly along the upper side of the trail to the intersection of the trail with the 2000 foot contour line; thence southerly along the 2000 foot contour line to the intersection of the contour line with an east-west line with north coordinate of *634185.634*; thence S. 22°00′ W. approximately 955 feet, crossing a minor drainage to the intersection of the 2000 foot contour line with an east-west line with north coordinate of *633300.539*; thence southerly along the 2000 foot contour line to the intersection of the contour line with a north-south line with east coordinate of *2982523.059*, which is a point on the ridge on the south side of Battle Creek; thence southerly along the 2000 foot contour line to the intersection of the contour line with an east-west line with north coordinate of *610679.460*; thence S. 15°00′ W. approximately 560 feet, crossing a minor drainage to the intersection of the 2000 foot contour line with an east-west line with north coordinate of *610137.606*; thence southwesterly along the 2000 foot contour line to the intersection of the contour line with a north-south line with east coordinate of *2980099.589*; thence S. 17°00′ W. approximately 880 feet, crossing Stud Creek to the intersection of the 2000 foot contour line with an east-west line with north coordinate of *605816.516*; thence southerly along the 2000 foot contour line to the intersection of the contour line with an east-west line with north coordinate of *602187.875*, which is a point on the ridge on the north side of Hells Canyon Creek; thence S. 85°15′ E. descending the slope to the mean high water line of the Snake River; thence southerly along the mean high water line of the Snake River to the intersection of the Snake River with the Hells Canyon Dam; thence east along the lower edge of the dam to the intersection of the dam with the thread of the Snake River which is the Oregon-Idaho state line, the point of beginning.

[FR Doc. 79-16860 Filed 6-5-79; 8:45 am]

BILLING CODE 3410-11-M

Rural Electrification Administration

Plains Electric Generation & Transmission Cooperative, Inc.; Loan Guarantee

Under the authority of Pub. L. 93–32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20–22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $5,000,000 to Plains Electric Generation and Transmission Cooperative, Inc., of Albuquerque, New Mexico. These loan funds will be used to finance construction of 38 miles of 345 kV transmission line and related minor terminal facilities from Ojo, New Mexico, to Taos, New Mexico.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed project, including the engineering and economic feasibility studies and the proposed schedule for the advances to the borrower of the guaranteed loan funds from Mr. Stanley K. Bazant, Manager, Plains Electric Generation and Transmission Cooperative, Inc., 2401 Aztec Road, Albuquerque, New Mexico 87107.

In order to be considered, proposals must be submitted July 5, 1979 to Mr. Bazant. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as Plains Electric

and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20–22 are available from the Director, Information Services Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated at Washington, D.C., this 29th day of May, 1979.

Robert W. Feragen,

Administrator, Rural Electrification Administration.

[FR Doc. 79-17279 Filed 6-4-79; 8:45 am]

BILLING CODE 3410-15-M

Science and Education Administration

Joint Council on Food and Agricultural Sciences, Executive Committee; Meeting

According to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776), the Science and Education Administration announces the following meeting:

NAME: Executive Committee, Joint Council on Food and Agricultural Sciences.

DATE: June 12, 1979.

TIME: 8:30 a.m.–4:00 p.m.

PLACE: Room 336–A, Administration Building, USDA, Washington, D.C.

TYPE OF MEETING: Open to the public. Persons may participate in the meeting as time and space permit.

COMMENTS: The public may file written comments before and after the meeting with the contact person below.

The meetings of the Joint Council's Executive Committee were inadvertently closed during 1978 and the first third Calendar Year 1979. Copies of the recorded actions of these meetings can be obtained from the contact person below.

PURPOSE: Review the status of the Joint Council's progress in putting into place the organizational structure for the planning and coordination efforts by the Council, discuss proposed guidelines for agricultural research awards, and finalize plans for the July 11–13, 1979, meeting of the Joint Council in Washington, D.C.

CONTACT PERSON: Dr. J. C. Torio, Executive Secretary, Joint Council on Food and Agricultural Sciences, Science and Education Administration, U.S. Department of Agriculture, Room 351–A, Administration Building, Washington, D.C. 20250, telephone (202) 447–6651.

Done at Washington, D.C. this 31st day of May 1979.

James Nielson,

Executive Director, Joint Council on Food and Agricultural Sciences.

[FR Doc. 79-17405 Filed 6-4-79; 8:45 am]

BILLING CODE 3410-03

CIVIL AERONAUTICS BOARD

[Docket No. 35582; Order 79-5-218]

Increases in International Passenger Fares Related to Increased Fuel Costs Proposed by Pan American World Airways, Inc.; Order of Suspension and Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 17th day of May 1979.

Pan American World Airways, Inc. (Pan American) has filed tariff revisions proposing fuel cost-related increases in Pacific and Latin American passenger fares effective June 1 or June 12, 1979.[1] In each transpacific market, Pan American would increase all fares by a fixed amount equal to 3.9 percent of the normal economy fare. In Latin American markets, fares would be increased by fixed amounts equal to 5.3 percent of the normal economy fare.

Pan American alleges that the fare increases are warranted by precipitous increases in fuel expenses, which on a system basis are expected to rise from $398 million in 1978 to at least $460 million in 1979. The carrier forecasts the following return on investment (ROI) figures in calendar 1979 scheduled combination service, as compared to its historical experience during calendar 1978:

	North/Central Pacific	South Pacific
1978	20.92%	7.15%
1979-Present fares	6.36	(6.73)
1979-Proposed fares	8.02	(5.13)

	Central America [1]	South America [2]
1978	8.36%	26.99%
1979-Present fares	1.24	22.20
1979-Proposed fares	4.55	26.21

[1] Includes Mexico.
[2] Includes Pan American's Caribbean markets.

Pan American states that while it is aware of the Board's policy against permitting increases in normal economy fares, it believes that in the present emergency situation, it is fairer for all passengers to share equally in recovery of higher fuel costs, and if the normal fares are not increased, the increase to passengers traveling on lower promotional fares would be even more severe, seriously impacting traffic levels.

The Board has carefully considered Pan American's proposals and justification, and decided on the following course of action.

Pacific

We do not believe Pan American has made a convincing case that its earnings in scheduled passenger service will decline so drastically as to justify all the increases sought. The forecast drop in ROI, from 20.92 to 6.36 percent in the North/Central Pacific, and from 7.15 to −6.73 percent in the South Pacific, is attributable primarily to projected escalations in non-fuel expenses, rather than experienced increases in fuel costs. For both areas the carrier projects a 26.9 percent increase in non-fuel unit costs for 1979, based on its experienced increase in costs per available ton-mile (ATM) for all services (including charter and all-cargo) in the total Pacific Division in 1978 compared to 1977. Yet the increase in cost per ATM in 1978 resulted in large part from Pan American's contraction in available capacity in 1978, such as its increased use of B–747SP equipment which has a lesser weight-lifting capacity than standard B–747 equipment; this spread costs over fewer units of capacity. Pan American is now forecasting an 11 percent increase in scheduled Pacific service ATM's for 1979, and in such circumstances the carrier's methodology of projecting basic unit costs based on past operating experience clearly overstates its cost escalations.[2]

The Board has long been concerned about the generally high level of transpacific fares, a concern which in the North/Central Pacific area is reinforced by Pan American's statement of a 1978 ROI approaching 21 percent. We have been striving to promote more competition and lower fares by authorizing new carriers and seeking more liberal bilateral agreements with our aviation partners. Some carriers have proposed significant reductions in North/Central Pacific fares,[3] and it would thus be incongruous to approve fare increases at this time. The only countries in the area with which the

[1] The transpacific fare increases were filed April 2, 1979, for effectiveness June 1, 1979. The Latin American fare increases were filed April 13, 1979, for effectiveness June 12, 1979.

[2] From 1977 to 1978, total Pacific cost per revenue ton-mile (RTM), for instance, increased only 3.5 percent, reflecting a marked improvement in load factor.

[3] Northwest Airlines has proposed reduced "Orient Express" fares between the United States and Japan, but the filing has not been approved by the Japanese Government. Northwest has, however, implemented reduced fares to Korea.

United States has concluded liberal bilateral agreements permitting open, multiple entry and substantial pricing freedom are Korea and Singapore. Other markets are still subject to restrictive entry, capacity or pricing provisions, and in the absence of competitive conditions we are not prepared to accept fare increases. Thus we will permit Pan American's increased North/Central Pacific fares to take effect only between United States, on the one hand, and Singapore and Korea, on the other.[4]

In the South Pacific, the recent introduction of service by a new carrier, Continental, has brought a new measure of competition to the market. However, restrictive bilateral agreements remain in force, particularly with New Zealand, where fares must still be approved by both governments. Our current understanding with the other major country in the area, Australia, affords the carriers country-of-origin pricing freedom, and we will therefore permit Pan American's tariffs to take effect as proposed on travel from Australia to the United States. In other respects, most notably restricted opportunities for new carrier entry, our agreement with Australia is no more liberal than that with New Zealand or other South Pacific countries. Despite the country-of-origin pricing arrangements, the Australian agreement contains none of the other significant liberalizations contained in the Netherlands and German agreements. These markets resemble, in our judgment, the North Atlantic markets in which we recently approved increases in promotional and first-class fares but suspended increases in normal economy fares. Thus, while Pan American has shown an overall revenue need in the area and we will permit it to raise first class and promotional fares as proposed, we will not allow it to increase its normal economy fares (except *from* Australia), which have remained at very high levels which we regard as significantly above cost.

Latin America

The U.S.-South America market is the one market where we cannot rely on competition even in promotional fares. Generally, all fares must still be approved by both governments, and entry and capacity are often restricted. Considering Pan American's ROI projection of 22.20 percent in combination service under present fares, we are unable to conclude that any increases are warranted.[5]

In Central America, while we have not concluded pro-competitive agreeements, competitive conditions do prevail. Considering the geographic structure of Central America and the vying among Central American countries for tourist travel, there appears to be a significant prospect of destination substitution based in large part on price competition. In Central America, the carrier's forecast shows a need for revenue improvement, and we will permit the proposed increases with the exception of normal economy fares. The normal economy fares to Central America have remained at very high levels, and Pan American's general arguments on normal fare increases do not persuade us to permit them to rise.[6]

Our suspension of normal economy fare increases in the South Pacific and Central American markets is consistent with our general policy of denying such increases in non-competitive markets. While it is clear that Pan American has recently been subjected to substantial increases in fuel expenses in its South Pacific and Central American operations, and requires compensating revenue adjustments, the situation is not so serious as to justify a departure from our long-standing policy of denying increases in normal economy fares in markets where such fares are not subject to the competitive pressures of open entry and pricing freedom. The more price-elastic segment of the market, served by promotional fares, has been the principal beneficiary of enhanced international price competition, and the full-service normal economy fares remain at or near levels set, in a long series of carrier agreements, high enough to cover the cost of providing services not required for basic point-to-point transportation, and in any event high enough to protect generally high-cost carriers. We realize that our consistent refusal to approve increases in normal economy fares has, in the presence of inflation, reduced their real price; however, we do not believe that these fares have yet reached levels which a fully competitive environment would produce.

Accordingly, pursuant to sections 102, 204(a), 801, and 1002(j) of the Federal Aviation Act of 1958, as amended:

1. We shall institute an investigation to determine whether the fares and provisions set forth in Appendices A, B and C hereof, and rules and regulations or practices affecting such fares and provisions, are or will be discriminatory, unduly preferential, unduly prejudicial or otherwise unlawful, and if we find them to be unlawful, to act appropriately to prevent the use of such fares, provisions, or rules, regulations, or practices;

2. Pending hearing and decision by the Board, we hereby suspend and defer the use of the tariff provisions in the attached:

Appendix A from June 1, 1979, to and including May 31, 1980;

Appendix B from June 11, 1979, to and including June 10, 1980;

Appendix C from June 12, 1979, to and including June 11, 1980; unless otherwise ordered by the Board, and shall permit no changes to be [7] made therein during the period of suspension except by order or special permission of the Board;

3. We shall sumbit this order to the President [8] and it shall become effective on June 1, 1979, with respect to the tariff provisions in Appendix A, on June 11, 1979, with respect to the tariff provisions in Appendix B, and on June 12, 1979, with respect to the tariff provisions in Appendix C; and

4. We shall file copies of this order in the aforesaid tariffs and serve them on Pan American World Airways, Inc.

We shall publish this order in the **Federal Register.**

By the Civil Aeronautics Board.

Phyllis T. Kaylor,[9]

Secretary.

Schaffer, Member, Concurring and Dissenting:

Consistent with my remarks last week I disagree with the methodology used by the Board which has the effect of approving increases in promotional and discount fares proposed by Pan American in the South Pacific while suspending increases in the normal economy fare level.

The only argument that I have heard for allowing flexibility to increase discount and promotional fares is that suspension and hence disapproval would have the effect of discouraging carriers from fare experimentation. By its own statements, Pan American itself claims that is not the case. Pan American apparently believes that in

[4] The U.S.-Singapore Agreement permits open entry and country-of-origin pricing freedom. The U.S.-Korea Agreement contains open entry and "double-disapproval" pricing provisions.

[5] We will accept the increases proposed for Jamaica, with which the United States has a liberal agreement including double-disapproval pricing freedom.

[6] We will, however, permit Pan American to increase its U.S.-Mexico normal economy fares, which are significantly lower than those to other Central American points and compare favorably with U.S. domestic coach fares in markets of similar stage length.

[7] Appendices A through C were filed as a part of the original document.

[8] We submitted this order to the President on May 18, 1979.

[9] All Members concurred except Member Schaffer who filed the attached concurring and dissenting statement.

the present emergency situation all passengers should share equally in the recovery of higher costs, rather than allowing the increases to fall only on passengers traveling on lower promotional fares. Thus, I fear the Board's action virtually invites Pan American to raise the level of discount fares even more than the 3.9 percent proposed in order to offset Board denial of the increase in normal fares.

The Board's methodology makes the fare increases fall unduly on those who, at least theoretically, can least afford the added cost burden. I accept the fact that some fare increases are unfortunately inevitable in these inflationary times. However, the carrier has chosen to spread the increases in a more equitable manner than the method chosen by the Board and I would defer to its judgment.

In all other respects I concur with the Board's order.

Gloria Schaffer.

[FR Doc. 79-17354 Filed 6-4-79; 8:45 am]

BILLING CODE 6320-01-M

CIVIL RIGHTS COMMISSION

Iowa Advisory Committee; Agenda and Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Iowa Advisory Committee (SAC) of the Commission, will convene at 11:30 am and will end at 5:00 pm on June 21, 1979, at the YWCA, Charter Room, 717 Grand, Des Moines, Iowa 50317.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Central States Regional Office of the Commission, Old Federal Office Building, Room 3103, 911 Walnut Street, Kansas City, Missouri 64106.

The purpose of this meeting is to discuss proposal for SAC project in Tama County.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., May 30, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79-17408 Filed 6-4-79; 8:45 am]

BILLING CODE 6335-01-M

Iowa Advisory Committee; Agenda and Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Iowa Advisory Committee (SAC) of the Commission will convene at 10:00 a.m. and will end at 3:00 p.m., on July 10, 1979, at the Holiday Inn Downtown, Blackhawk Room, 1050 Sixth Avenue, Des Moines, Iowa 50314.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Central States Regional Office of the Commission, Old Federal Office Building, Room 3103, 911 Walnut Street, Kansas City, Missouri 64106.

The purpose of this meeting is to discuss new project proposals for Committee ratification.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., May 30, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79-17409 Filed 6-4-79; 8:45 am]

BILLING CODE 6335-01-M

Maryland Advisory Committee; Agenda and Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Maryland Advisory Committee (SAC) of the Commission will convene at 4:30 pm and will end at 8:00 pm, on June 26, 1979, at the State Highway Administration Building Auditorium, 300 West Preston Street, Baltimore, Maryland.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street, N.W., Room 510, Washington, D.C. 20037.

The purpose of this meeting is to discuss the Baltimore Police Citizens' Complaint procedure with representatives of local organizations and the Baltimore Community Relations Commission.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., May 29, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79-17410 Filed 6-4-79; 8:45 am]

BILLING CODE 6335-01-M

Michigan Advisory Committee; Agenda and Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights that a conference of the Michigan Advisory Committee (SAC) of the Commission will convene at 9:00 am and will end at 5:30 pm on July 9, 1979; also at 9:00 am and ending at 12:30 pm on July 10, 1979, at the Detroit Plaza Hotel, Mackinac West (Room), Renaissance Center, Detroit, Michigan 48243.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604.

The purpose of this conference is to have a consultation on housing and civil rights.

This conference will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated: at Washington, D.C., May 29, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79-17411 Filed 6-4-79; 8:45 am]

BILLING CODE 6335-01-M

Minnesota Advisory Committee; Agenda and Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Minnesota Advisory Committee (SAC) of the Commission will convene at 6:00 pm and will end at 8:00 pm, on June 20, 1979, at Capp Towers, 77 East Ninth Street, St. Paul, Minnesota.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604.

The purpose of the meeting is to have a discussion on police study, interviews, and preparations for open meeting.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated: at Washington, D.C., May 30, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79-17412 Filed 6-4-79; 8:45 am]

BILLING CODE 6335-01-M

Virginia Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Virginia Advisory Committee (SAC) of the Commission will convene at 6:30 pm and will end at 10:00 pm on June 28, 1979, at

Morton's Ten Room, 2 Franklin Street, Richmond, Virginia.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street, N.W., Room 510, Washington, D.C. 20037.

The purpose of this meeting is to discuss program planning for remainder of FY 79.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated: at Washington, D.C., May 31, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79-17413 Filed 6-4-79; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee meeting:

Name of the Committee: Army Science Board.
Dates of Meeting: June 20-21, 1979.
Place: The Pentagon, Washington, D.C. (exact location can be determined by contacting LTC Sweeney at 202 697-9703).
Time: 0800-1700, June 20-21, 1979 (Closed).
Proposed Agenda:

The ASB Summer Study participants will receive classified briefings to prepare them to develop a report on "Technology Planning of Future Fielded Systems." This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof. The classified and non-classified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting.

Robert F. Sweeney,

LTC, GS, Executive Secretary, Army Science Board.

[FR Doc. 79-17310 Filed 6-4-79; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92-463), announcement is made of the following Committee meeting:

Name of the Committee: Army Science Board
Dates of Meeting: June 25-26, 1979
Place: The Pentagon, Washington, D.C. (exact location can be determined by contacting LTC Sweeney at 202 697-9703).
Time: 0800-1700, June 25-26, 1979 (Closed)
Proposed Agenda: The ASB Summer Study participants will receive classified briefings to prepare them to develop a report on "Technology Planning of Future Fielded Systems." This meeting will be closed to the public in accordance with Section 552b(c) of title 5, U.S.C., specifically subparagraph (1) thereof. The classified and non-classified matters to be discussed are so inextricably intertwined so as to preclude opering any portion of the meeting.

Robert F. Sweeney,

LTC, GS, Executive Secretary, Army Science Board.

[FR Doc. 79-17311 Filed 6-4-79; 8:45 am]

BILLING CODE 3710-08-M

Department of the Navy

Technology Sub-Panel of the Chief of Naval Operations Executive Panel Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Technology Sub-Panel of the Chief of Naval Operations (CNO) Executive Panel Advisory Committee will meet on June 28-29, 1979, at the Pentagon, Washington, D.C. Sessions of the meeting will commence at 8:30 a.m. and terminate at 5:00 p.m. on both days. All sessions of the meeting will be closed to the public.

The entire agenda for the meeting will consist of discussions of Soviet naval research and development and related intelligence. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meetings be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact Commander Robert B. Vosilus, U.S. Navy, Executive Secretary of the CNO Executive Panel Advisory Committee, 1401 Wilson Boulevard, Room 405, Arlington, VA 22209, telephone number (202) 694-3191.

Dated: May 29, 1979.

P. B. Walker,

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

[FR Doc. 79-17342 Filed 6-4-79; 8:45 am]

BILLING CODE 3810-71-M

Naval Research Advisory Committee; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Naval Research Advisory Committee will meet on June 21-22, 1979, at the Marine Corps Development and Education Command, Quantico, Virginia, and The Pentagon, Washington, D.C. The meeting will consist of five sessions. The first session will commence at 8:00 a.m. and terminate at 10:10 a.m. on June 21, 1979. The second session will commence at 10:10 a.m. and terminate at 12:00 noon on June 21, 1979. The third session will commence at 1:00 p.m. and terminate at 4:30 p.m. on June 21, 1979. The fourth session will commence at 8:00 a.m. and terminate at 12:00 noon on June 22, 1979. Finally, the fifth session will commence at 1:00 p.m. on June 22, 1979, and continue to completion. The first, second, and third sessions of the meeting will be held in the Bower Room, Harry Lee Hall, Quantico, Virginia. The fourth and fifth sessions will be held in the PEC Room 4D710 in The Pentagon, Washington, D.C. The first session in the morning of June 21, 1979, will be open to the public. The remaining four sessions will be closed to the public.

The purpose of the meeting is to discuss basic and advanced research in the Navy. The open session will include an unclassified discussion of the command structure and mission of the Marine Corps Development and Education Command and the Marine Corps requirements process. The remaining sessions of the meeting will consist of classified information that is specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense and is in fact properly classified pursuant to such Executive order. The Secretary of the Navy has therefore determined in writing that the public interest requires the second, third, fourth, and fifth sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting contact:

Captain J. B. Morris, U.S. Navy, Office of Naval Research (Code 102C1), 800 North Quincy Street, Arlington, VA 22217, telephone number (202) 696-4713.

Dated: June 1, 1979.

P. B. Walker,

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

[FR Doc. 79-17534 Filed 6-4-79; 8:45 am]

BILLING CODE 3810-71-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Analysis of Refiners' No. 2 Distillate Costs and Revenues: July 1976–December 1978

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Pre-hearing Conference.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of a second pre-hearing conference to be held on Tuesday, June 12, 1979, regarding a proposed public hearing on the relation between cost and revenue increases for No. 2 distillates in the period from deregulation (July 1976) through December 1978. The purpose of the conference is to review comments received by DOE regarding the methodology used in its study entitled *Analysis of Refiners' No. 2 Distillate Costs and Revenues: July 1976 through December 1978* and the scope of the proposed public hearing concerning No. 2 distillates. Participation in the prehearing conference is limited to those parties which have requested to participate in the proposed hearing. DOE anticipates setting a date for the proposed public hearing at this pre-hearing conference.

DATES: Pre-hearing conference, 10:00 a.m., Tuesday, June 12, 1979.

ADDRESS: Pre-hearing conference, Room 2105, 2000 "M" Street, NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Ms. Debra Kidwell (Hearing Procedures), 2000 "M" Street, NW., Room 2313, Washington, D.C. 20461 (202) 254–5201.

William Gillespie (Economic Regulatory Administration), 2000 "M" Street, NW., Room 2109, Washington, D.C. 20461 (202) 632–5140.

William Mayo Lee (Office of General Counsel), Department of Energy, Forrestal Building, Room 6A–127, Washington, D.C. 20585 (202) 252–6754.

SUPPLEMENTARY INFORMATION:

I. Background
II. Comments
III. Participants

I. *Background*

On March 23, 1979 (44 FR 16031, March 16, 1979) ERA held a pre-hearing conference to discuss procedures and a time frame for a public hearing to be held to consider the relation between cost and revenue increases of No. 2 distillate at the refiner level. At the pre-hearing conference it was determined that ERA should receive additional comments regarding three issues raised at the conference. Accordingly, ERA invited written comments on the following:

A. The methodology used by ERA in the study entitled *Analysis of Refiners' No. 2 Distillate Costs and Revenues: July 1976 through December 1978*, including questions and suggestions for improvement;

B. The scope of the proposed public hearing; and,

C. The appropriateness of the data ERA intends to request from refiners to update the study.

Comments, which were due by May 7, 1979, were analyzed by ERA and ERA's answers to questions regarding the three issues that were raised at the pre-hearing conference will be distributed to participants in the proposed hearing by June 4, 1979.

In addition, ERA extended the time period to participate in the public hearing to April 9, 1979.

II. *Comments*

By May 23, 1979 ERA had received comments from fourteen participants in the proposed public hearing: 9 refiners, 1 consumer group, 2 federal agencies, 1 trade association, and 1 group of state officials. The comments are on file at the Office of Public Information, Room B110, 2000 "M" Street, NW., Washington, D.C. 20461.

In general most refiners agreed that the methodology used in the study was reasonably appropriate. Some reservations advanced by certain refiners were that the methodology used did not address problems associated with joint cost; certain cost increases which may currently be recovered under decontrol were not permitted to be recovered when the price rules were in effect, and this is not reflected in the study; the time period covered by the study should be extended; and, the study should compare costs and revenues over a year, not monthly. The consumer group questioned the method of monitoring price and supply employed in the study and ERA's audits of refiners' costs and revenues associated with No. 2 heating oil. The trade association had several questions regarding the source, appropriateness, and reliability of data used in the study.

The Department of Justice suggested that ERA determine the adequacy of the supply of crude oil during the period of decontrol and the effect of the structure of the refining industry on competition.

Regarding the procedures to be used at the proposed public hearing, three refiners recommended that ERA conduct a legislative type hearing.

Regarding the appropriateness of data ERA intends to request from refiners to update the study, one refiner indicated that ERA should not collect gasoline data. Two refiners indicated that the study should be updated in the summer, and another refiner indicated that the study should be updated in November.

III. *Participants*

The participants in the proposed public hearing include the 15 original participate (*see* 44 FR 19011, March 30, 1979) and the Attorneys General of six New England states.

On May 7, 1979, the six New England states petitioned the ERA to participate in the hearing. Recognizing the critical importance of heating oil to the welfare of this region, the ERA has included the Attorneys General of the six New England states in the hearing, even though the petitions were received after the April 9, 1979, deadline for requesting to participants.

Issued in Washington, D.C., May 30, 1979.

David J. Bardin,

Administrator, Economic Regulatory Administration.

[FR Doc. 79-17415 Filed 6-4-79; 8:45 am]

BILLING CODE 6450-01-M

Energy Corporation of America; Proposed Remedial Order

Pursuant to 10 CFR § 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of a Proposed Remedial Order which was issued to Energy Corporation of America, P.O. Box 8407, Metairie, Louisiana 70011. This Proposed Remedial Order charges Energy Corporation of America (Energy) with pricing violations in the amount of $258,852.39, caused by Energy's having made sales of crude oil at prices in excess of those permitted under the Cost of Living Council price rule in 6 CFR § 150.353 and the Federal Energy Administration (now the DOE) price rule in 10 CFR § 212.73. ERA maintained that the overcharges were the result of Energy's characterization of certain crude oil as "new" and "released" crude oil without regard to cumulative

deficiencies, and its characterization of certain crude oil as "stripper well" crude oil even though the average daily production for the applicable periods exceeded ten barrels of crude oil per well per day allowed by 6 CFR § 150.54(s) and 10 CFR §§ 210.32 and 212.54.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Wayne I. Tucker, Acting District Manager, Southwest District Enforcement, Department of Energy, Economic Regulatory Administration, P.O. Box 35228, Dallas, Texas 75235, or by calling (214) 749–7626. On or before June 20, 1979, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street NW., Washington, D.C. 20461, in accordance with 10 CFR § 205.193.

Issued in Dallas, Texas, on the 25th day of May, 1979.

Romulo Garcia,

Acting District Manager, Southwest District Enforcement.

[FR Doc. 79–17414 Filed 6–4–79; 8:45 am]

BILLING CODE 6450–01–M

United Oil Co.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to United Oil Company, 100 Central Avenue, Hillside, New Jersey 07205. This Proposed Remedial Order charges United Oil Company with pricing violations in the amount of $87,681, connected with the sale of No. 4 oil during the time period November 1, 1973, through March 31, 1974, in the State of New Jersey.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Herbert M. Heitzer, District Manager of Enforcement, 1421 Cherry Street, Philadelphia, Pennsylvania 19102, telephone 215–597–3870. Within 15 days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, N.W., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Philadelphia on the 17th day of May 1979.

Herbert M. Heitzer,

Northeast District Manager, Office of Enforcement.

[FR Doc. 79–17320 Filed 6–4–79; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. TC79–127 (Related to Docket No. RP72–89)[1]

Columbia Gas Transmission Corp.; Order Suspending Proposed Tariff Provisions, Granting Motion for Informal Conference, Denying Motion To Reject, Establishing Procedures, and Permitting Interventions

Issued May 25, 1979.

On April 27, 1979, as supplemented May 2, 1979, Columbia Gas Transmission Corporation (Columbia) submitted for filing in the above-entitled proceeding pursuant to Section 4 of the Natural Gas Act, proposed changes to its FERC Gas Tariff[2] by which Columbia intends to delete the seasonal curtailment provisions and Maximum Monthly Volume limitations from its currently effective tariff.[3] Columbia requests that the proposed tariff changes be allowed to become effective as of April 1, 1979, and that if the Commission suspends the filing, such suspension be for only one day in order that these proposed tariff revisions may be made effective at the earliest possible date. Columbia filed concurrently on April 27, 1979, a motion for the convening of an informal conference as the most appropriate procedure in connection with its aforesaid tariff filing.

Although Columbia's filing eliminates, as indicated, its seasonal curtailment procedures, it proposes to retain its currently effective daily curtailment procedures for implementation in the event of *force majeure* situations, including an unanticipated temporary loss of gas supply, as well as the tariff provisions designed to protect high priority and essential agricultural uses on its system.

Columbia claims that removal of this seasonal curtailment procedures is appropriate becasue it projects no further curtailments on its system. Based upon the most recent estimates of Columbia's Gas Requirements and Gas Available as reflected in Appendix A to the letter transmitting its filing of April 27, 1979, Columbia states that it eliminated curtailment on its system initially with the April, 1979, billing month and expects to serve its customers' full requirements, including limited growth,[4] through October, 1987, the last year of the projections. Even though Appendix A indicates Columbia customers' aggregate requirements through the 1987 contract year to be less then the total of its customers' Maximum Monthly Volumes, deletion of the Maximum Monthly Volumes limitation is stated to be necessary to meet the estimated requiremetns of certain customers commencing with the current seven-month summer season. Columbia also contends that as evidenced by its Form No. 16 report filed on April 30, 1979, its estimated gas supply for the twelve-month period beginning April 1, 1979, is adequate to serve its wholesale customers' requirements for that period and in fact to reflect excess volumes of approximately 59.6 Bcf during the current summer season.

Pursuant to Notice published in the **Federal Register**, petitions for and notices of intervention were due on or before May 11, 1979. Timely petitions for leave to intervene were filed by the Cities of Charlottesville and Richmond, Virginia (Cities), Commonwealth Gas Pipeline Corporation (Commonwealth), Dayton Power and Light Company (Dayton),[5] Owens-Corning Fiberglas Corporation, Pennsylvania Gas and Water Company, UGI Corporation, and the Washington Gas Light Company. On May 16, 1979, a joint petition to intervene out of time was filed by Columbia Gas of Kentucky, Inc., Columbia Gas of Maryland, Inc., Columbia Gas of New York, Inc., Columbia Gas of Ohio, Inc., Columbia Gas of Pennsylvania, Inc., Columbia Gas of Virginia, Inc., and Columbia Gas of West Virginia, Inc. The Process Gas

[1] The proceeding to determine a permantent curtailment plan 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.

[2] Original Volume No. 1: Fifth Revised Sheet Nos. 1 and 19; Fourth Revised Sheet Nos. 20, 28, 29, 30 and 33; Second Revised Sheet Nos. 27, 31, 32, 37, 43 and 63; Third Revised Sheet No. 34; First Revised Sheet Nos. 38, 44, 44A, 44B, 44C, and 44D; Sixth Revised Sheet No. 47; Seventh Revised Sheet Nos. 62 and 90; and Original Sheet No. 63A.

[3] These features are embodied in Columbia's currently effective interim curtailment plan authorized pursuant to the Commission's order issued October 31, 1975, in Docket No. RP72–89.

[4] Columbia wholesale customers' estimates of gas requirements through the 12 months ending October, 1987, underlying the projections in Appendix A reflect the addition of new loads to all classes of consumers except new boiler fuel and power generation loads of more than 300 Mcf/Dth per day.

[5] On May 18, 1979, Dayton moved for leave to amend its petition, thereby requesting a hearing in the event that such is necessary herein.

Consumers Group (PGC) filed a timely petition to intervene, protest of proposed tariff revisions, and motion to reject, or alternatively, request for formal hearings.[6] Additionally, telegrams supporting Columbia's tariff submittal or asserting no objection thereto were filed by the Allied Chemical Corporation, Acme Natural Gas Company, Baltimore Gas and Electric Company, Corning Natural Gas Corporation, Cumberland Valley Pipe Line Company, Inc., Lynchburg Gas Company, National Fuel Gas Supply Corporation, Orange and Rockland Utilities, Inc., UGI Corporation, and West Ohio Gas Company.

None of the aforementioned petitioners requests a formal hearing except Cities, PGC, and Dayton. Commonwealth strongly supports Columbia's tariff submittal, urging that the Maximum Monthly Volumes currently in effect as a part of Columbia's interim curtailment plan are obsolete as well as unduly discriminatory and preferential in that some customers thereby receive gas allocations exceeding their present requirements, while others such as Commonwealth obtain insufficient volumes to serve their existing loads. Cities raise questions, particularly concerning the accuracy of Columbia's supporting gas supply data contained in Appendix A to its letter submitting the instant filing, and contend that the filing should be suspended for one day and set for prompt hearing.

PGC avers that the subject tariff filing should be rejected because allegedly: (1) a Commission order approving such proposed change is a prerequisite to any valid modification of Columbia's presently effective interim curtailment plan approved in Docket No. RP72–89 "for the winter heating season November 1, 1975, through March 31, 1976, and thereafter subject to further order of the Commission"; and (2) Columbia's proposed removal of the volumetric limitations from its FERC tariff is contrary to the holding of the District of Columbia Circuit in *Granite City Steel Company* v. *F.P.C.*, 320 F. 2d 711 (D.C. Cir., 1963), that Section 7 of the Natural Gas Act prohibits the taking of gas from existing lawful customers of a pipeline by initial natural gas customers or those desiring additional volumes of natural gas. Alternatively, PGC urges that the subject tariff submittal be suspended for the full five-month statutory period and the matter of its lawfulness be set for formal evidentiary hearings. In support of this latter contention, PGC poses numerous questions, including those concerning (1) the reliability of gas supply estimates by Columbia's pipeline suppliers in view of recent findings of the American Gas Association reflecting a substantial decline in proven gas reserves; (2) the lack of clarity in the tables in the aforesaid Appendix A as to what extent Columbia's projected requirements are contemplated to be met by gas supply projects such as exchanges via the "Trailblazer System" or Ozark Transmission System and the use of storage gas from Crawford Storage Field, none of which has been authorized by the Commission; (3) the extent to which supply from Columbia's SNG plant at Green Springs, Ohio, can be reasonably assured; and (4) the propriety of removing load growth restrictions in view of the possible adverse effect therefrom upon Columbia's existing customers, especially those who have made substantial investments for the purpose of developing supplementary gas supplies.

We note that two of the aforesaid petitions seeking intervention raise questions concerning various aspects of the subject filing, especially the reliability of the gas supply figures contained in Appendix A to the letter submitting such filing that underlie Columbia's claim of an ability to supply its wholesale customers' natural gas requirements through October, 1987, without resorting to any form of curtailment. However, we are unable to agree with PGC's motion to reject Columbia's submittal. Our order of October 31, 1975, prescribing Columbia's presently effective three-priority curtailment plan for the 1975–76 winter heating season and thereafter subject to further order of the Commission clearly contemplated action within a reasonable period of time upon the then recent initial decision after hearing by the presiding administrative law judge in Docket No. RP72–89 relative to a permanent curtailment plan for the Columbia system. At this time—more than three years later—we do not believe the order directing the adoption of the currently effective interim plan on Columbia's system can be said to invalidate on its face the instant tariff filing founded upon claims by Columbia that its gas supplies and customer needs have changed and projections relating thereto reveal no further need for curtailment in the foreseeable future. *Cf. Southern Natural Gas Company* v. *F.P.C.*, 547 F. 2d 826, 832–834 (5th Cir., 1977). Nor do we find PGC's use of the *Granite City Steel* case *supra* to be a proper analogy. Assuming Columbia's underlying premise that ample quantities of gas for its wholesale customer requirements will be available for an indefinite period of time, no impingement upon the entitlements of existing customers will result from Columbia's proposed elimination of the volumetric limitations embodied in its FERC Gas Tariff.

Turning to the question of whether to permit the proposed filing to go into effect without further delay, our review of Columbia's submittal, together with the disparate contentions made by supporting and opposing parties, reveals several infirmities in the claimed support for Columbia's requisite gas supply projections, such as their failure to disclose whether speculative new or increased gas supply from exchange and storage projects not yet authorized by the Commission are included and the uncertainty of the level of services to be expected from existing pipelines from which Columbia purchases natural gas in substantial quantities. Moreover, we are not persuaded that Columbia has shown the proposed tariff provisions to afford adequate protection for high priority uses and essential agricultural uses as required by the Natural Gas Policy Act of 1978, 92 Stat. 3394–3395. In these circumstances, the proposed tariff provisions have not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, we shall accept the proposed tariff provisions for filing as of April 1, 1979, but shall suspend them for one day until April 2, 1979.

Our decision to suspend the subject filing for one day instead of a longer period of time is based upon the absence of any request for a suspension for the full statutory period except from PGC and of any likelihood that irreparable harm will emanate from imposition of the shorter suspension period.

We are of the view that Columbia and the parties herein should be afforded the opportunity to resolve any differences that may have arisen regarding the proposed tariff provisions through informal discussion, and therefore will grant Columbia's request for an informal conference. However, we shall require that the conference be convened by a Presiding Administrative Law Judge to whom the parties will report their progress toward a settlement of the issues and who, in turn, will file a report with the Commission within 30 days of the convening of the conference setting forth the status of the proceeding at that

[6] On May 18, 1979, Columbia filed an answer in opposition to PGC's pleading.

time and his recommendations concerning future procedures.

The Commissioner further finds: (1) The tariff sheets set forth in footnote 2 of the recital above have not been shown to be justified and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the tariff sheets set forth in footnote 2 of the recital above be accepted for filing as of April 1, 1979, be suspended, and the use thereof deferred as hereinafter provided.

(3) Good cause exists to grant the motion for convening an informal conference by Columbia filed on April 27, 1979, to deny the motion to reject by PGC filed on May 11, 1979, and to grant Dayton's motion to amend its petition filed on May 18, 1979.

(4) The participation of the above-named petitioners in this proceeding may be in the public interest.

The Commission orders: (A) The tariff sheets referred to in paragraph (1) above are hereby accpeted for filing as of April 1, 1979.

(B) The tariff sheets referred to in paragraph (A) above are hereby suspended and the use thereof deferred until April 2, 1979, when they shall be permitted to become effective upon motion filed by Columbia in accordance with the provisions of the Natural Gas Act.

(C) The notice requirements of Section 154.22 of the Commission's Regulations under the Natural Gas Act are hereby waived.

(D) Pursuant to the provisions of Section 1.18 of the Commission's Rules of Practice and Procedure, a duly designated Presiding Administrative Law Judge shall convene a settlement conference at 10:00 a.m. (EDT) on June 19, 1979, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The Presiding Judge is authorized to establish such further procedural dates as may be necessary and to rule upon all motions (except motions to consolidate, sever, or dismiss), as provided for in the rules of practice and procedure. Within 30 days of the aforesaid conference, the Presiding Judge shall submit a report to the Commission discussing the current status of the issues, together with his recommendation as to what future procedural course should be followed herein.

(E) The motion to convene an informal conference by Columbia filed on April 27, 1979, and the motion to amend its petition by Dayton filed on May 18, 1979, are hereby granted; and the motion to reject by PGC filed on May 11, 1979, is hereby denied.

(F) The above-named intervenors are permitted to intervene in this proceeding subject to the rules and regulations of the Commission, *Provided, however,* that the participation of such intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in their petitions to intervene; and *Provided, further,* that the admission of said intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order of the Commission entered in this proceeding.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-17304 Filed 6-4-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. RP73-107, RP74-90, RP75-91 (Appalachian Production)]

Consolidated Gas Supply Corp.; Grant of Time Extension

May 25, 1979.

On May 9, 1979, Consolidated Gas Supply Corporation filed a motion for a further extension of time to file supplementary briefs due pursuant to the Commission order of February 23, 1979 in this proceeding. The motion states that a settlement agreement is expected to be filed shortly and that the New York Public Service Commission and Staff Counsel concur with the motion.

Upon consideration, notice is hereby given that an extension of time is granted to and including June 25, 1979 for filing supplementary briefs and to and including July 11, 1979, for the filing of reply briefs.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-17305 Filed 6-4-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP78-10 and RP72-32 (PGA77-2a)]

Kansas-Nebraska Natural Gas Co.; Grant of Time Extension

May 23, 1979.

On May 18, 1979, Commission Staff Counsel filed a motion for extension of time to file briefs on the initial decision issued in this proceeding on April 23, 1979. The motion states that additional time is needed because of a conflicting assignment of Staff Counsel.

Upon consideration, notice is hereby given that an extension of time for filing briefs on exceptions is granted to and including June 18, 1979. Briefs opposing exceptions shall be filed on or before July 9, 1979.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79-17306 Filed 6-4-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP77-30]

Mississippi River Transmission Corp.; Petition To Amend

May 29, 1979.

Take notice that on May 15, 1979, Mississippi River Transmission Corporation (Petitioner), P.O. Box 14521, St. Louis, Missouri 63178; filed in Docket No. CP77-30 a petition to amend the order of February 1, 1977,[1] issued in the instant docket pursuant to Section 7(c) of the Natural gas act so as to authorize Petitioner to sell an increased quantity of natural gas to Panhandle Eastern Pipe Line Company (Panhandle), all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

It is indicated that pursuant to the order of February 1, 1977, and others,[2] certificates were issued to Panhandle, Natural Gas Pipeline Company of America (Natural), Trunkline Gas Company (Trunkline) and Petitioner authorizing, among other things, arrangements for the transportation and redelivery to Petitioner, by means of facilities of Natural, Panhandle and Trunkline, natural gas produced from the Southwest New Liberty Field area, Beckham County, Oklahoma. Petitioner states that as partial consideration for the transportation service by Panhandle and Trunkline, it agreed to sell to Panhandle, pursuant to a transportation and sales agreement dated September 1, 1976, among Panhandle, Trunkline and Petitioner up to 20 percent of the volumes of natural gas which Petitioner purchases and delivers to Natural in Beckham County for the account of Panhandle. The maximum volume of gas which Panhandle is obligated to receive from Petitioner at the point of receipt is 3,300 Mcf of natural gas per day, it is stated.

It is indicated that Petitioner has participated in funding the drilling of an additional deep well in the Southwest New Liberty Field, the Sanders No. 1

[1] This proceeding was commenced by the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

[2] Panhandle, Docket No. CP76-527, Natural Gas Pipeline Company of America, Docket No. CP76-528, and Panhandle, Docket No. CP77-16.

Well, which has now been completed in the Hunton formation, and that Petitioner has or would have contracted for the purchase of approximately 79.5 percent of the production from this new well, including an approximate 28.2 percent interest of its subsidiary, MRT Exploration Company. Petitioner may additionally contract for the purchase of Laclede Gas Company's interest (approximately 7.8 percent) and may also be successful in contracting for the interests of other producers in the Sanders Well or in other wells in the area, it is stated.

Petitioner states that in order to accommodate the increased quantity of gas which it expects to have available for purchase, it has entered into an amendment dated March 2, 1979, with Panhandle and Trunkline which amendment amends the September 1, 1976, agreement and provides for increases in the maximum firm volume of gas which Panhandle is obligated to receive from 3,300 Mcf per day to 8,000 Mcf per day and also makes proportionate charges in other numeric values to reflect the resulting increase in the volume of sales gas that would be available to Panhandle for purchase. If Panhandle continues to elect to purchase the 20 percent of the volume available to it, and assuming that the volume received at the point of receipt equals the increased maximum firm volume of 8,000 Mcf per day, the sales gas quantity sold by Petitioner to Panhandle would equal 1,600 Mcf per day, it is stated. Such amendment also reflects up-dated unit transportation charges based upon the current transmission cost of service of Natural and Panhandle, and revised minimum monthly transportation charges, reflecting the volumetric increase effected by the amendment as shown below.

Redelivery point to Panhandle by Natural	Initial firm contract quantity (Mcf per day)	Initial firm transportation quantity (Mcf per day)[1]	Minimum monthly transportation charge	Unit charge per Mcf (cents)
Beckham County, Oklahoma	8,000	6,400	$29,472	20.17
Clark County, Kansas	8,000	6,400	38,400	26.30
Dewey County, Oklahoma	8,000	6,400	33,264	22.77

[1]Initial Firm Contract Quantity less 20% Sales Gas.

NOTE.—The volumes listed herein are at a pressure base of 14.73 psia saturated.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before June 20, 1979, 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. 79-17307 Filed 6-4-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-312]

Transcontinental Gas Pipe Line Corp.; Application

May 25, 1979.

Take notice that on May 17, 1979, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP79-312 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, on an interruptible basis for the period ending October 15, 1979, for the account of Public Service Electric and Gas Company (Public Service) which gas the latter has arranged to purchase from Equitable Gas Company (Equitable), 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 Equitable would make available quantities of natural gas of up to 35,000 Mcf per day to Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), at an existing interconnection between Tennessee and Equitable in Pennsylvania and Tennessee would transport and deliver such quantities to Applicant at the existing Tennessee-Applicant Rivervale interconnection in Bergen County, New Jersey. Applicant would deliver equivalent quantities to Public Service at Applicant's existing delivery points to Public Service in New Jersey, it is said.

Applicant states that for all quantities transported and delivered, Public Service would pay Applicant initially a rate of 3.5 cents per dekatherm. It is asserted that the quantities transported pursuant to the requested authorization would be used solely by Public Service in the generation of electric and/or steam energy at existing Public Service generating stations which are or have been exempted from the provisions of the Powerplant and Industrial Fuel Use Act of 1978.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 15, 1979 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 Commissioin 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. 79-17308 Filed 6-4-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. ER79-267 and ER79-268]

Union Electric Co.; Electric Rates; Order Granting Motion, Consolidating Dockets, Rejecting Submittals, and Granting Intervention

Issued May 25, 1979.

On March 26, 1979, in Docket No. ER79-267, Union Electric Company (Union) tendered for filing a proposed Notice of Cancellation of its existing Interchange Service Agreement with the City of Columbia, Missouri (City).[1] On the same date Union also submitted an unexecuted superseding Interconnection Agreement in Docket No. ER79-268. The transmittal letters accompanying each of the submittals express Union's intention to remain interconnected with the City and to utilize the superseding interconnection agreement as a vehicle for continuing service between the parties. Union proposes an effective date of May 27, 1979, for the superseding agreement.

The proposed agreement provides for the exchange of firm power, short-term non-firm power, emergency and economy energy, and for Union to wheel power and energy from third parties to City. The agreement and accompanying service schedules set forth the proposed terms, conditions, and charges for short-term non-firm power, economy energy, and emergency energy. However, with respect to firm power service and wheeling (transmission) service, the agreement provides that the associated rates, terms, and conditions will be negotiated by the parties for each transaction. Absent satisfactory negotiations, the agreement would enable the supplying party to disclaim any duty under the agreement to provide the desired service. In addition, either party could refuse to supply any of the specified services if, in its sole judgment, such service would impose an "operational or economic burden."

Union's submittal would require that firm power service be reserved at least one year in advance, and that wheeling service be reserved seven months in advance. According to the proposed agreement, firm power service would be considered only as firm as the top ten percent increment of the seller's native load, thus enabling the seller to interrupt service when forced to shed the first ten percent of its native load. In the event that either party chooses to terminate an interconnection point prior to complete amortization of the cost of Union's facilities installed at that location, City would be required to pay a termination charge.

Public notices of Union's filings were issued on March 30, 1979, with comments required to be filed on or before April 16, 1979, in Docket No. ER79-268, and on or before April 20, 1979, in Docket No. ER79-267. On April 16, 1979, City filed a protest, petition to intervene, motion to reject, or alternatively, for consolidation of the dockets, maximum suspension, and hearing. We find that participation in this proceeding by City may be in the public interest.

City's pleading notes that negotiations for a revised contract began as early as 1976, and have not yet concluded. City further asserts that various terms contained in Union's submittal, particularly those described above, are unsatisfactory to the City, and are contrary to the Commission's Regulations. According to City, the absence of cost support and specified rates for firm power or wheeling service renders the filing objectionable. City contends that the requirement for annual negotiation of rates is excessively open-ended and amounts to a threatened abandonment of service. Additionally, City challenges those provisions of the agreement which would permit total or partial termination of service upon a unilateral determination by the supplier that it would experience an "economic burden" or upon the parties' inability to negotiate terms or to reasonably resolve disputes.

City further objects to the contractual provision that would permit interruption of firm power service when the seller is interrupting the initial ten percent of its native load. Based on the alleged discriminatory nature of this provision, City asserts that a firm power rate must appropriately reflect the purported difference in risk between retail and wholesale customers.

In the event that Union chooses to terminate an interconnection point, City disputes the reasonableness of the provision which would compel City to pay a termination charge. City also contends that Union's failure to provide for short-term wheeling service might prevent City from realizing the benefits of new pooling-type arrangements, and that the one-year notice requirement for firm power service might preclude City from receiving necessary service during the summer of 1979.

On May 2, 1979, Union filed an answer to City's pleading. Union opposes consolidation of these dockets, asserting that they represent two distinct actions on the part of Union. Similarly, Union denies many of the implications conveyed by City and challenges City's request that the filing be rejected.

Union alleges that it has endeavored to cooperate with City, that it continues to do so, and that the proposed agreement incorporates many of the desires expressed by City. In its answer, Union further represents that it has agreed to serve City's needs for the twelve-month period beginning May 27, 1979. Thus, Union denies the allegation that City may be confronted with a discontinuity of service. In short, Union asserts that its notice of termination of the existing contract (Docket No. ER79-267) was a legitimate exercise of its rights under the contract, and that its unilateral submittal of the unexecuted agreement (Docket No. ER79-268) was necessitated by the parties' inability to resolve disputed issues.

It is clear that Union's two submittals present common questions of law and fact and must be examined in concert with one another. Despite assertions by Union that they are independent, the two filings would result in a single change in the existing service agreement—*i.e.*, supplanting the existing contract with a revised agreement which amends the rates, terms, and conditions of service. Consequently, we shall consolidate these dockets.

Based upon our review of Union's filing in Docket No. ER79-268, we find that the unexecuted interconnection agreement patently fails to comply with our Regulations governing changes in rate schedules. Section 35.1(a) requires that each public utility shall post "full and complete rate schedules . . . clearly and specifically setting forth all rates and charges. . . ." Section 35.2(b) includes in the definition of the term rate schedule, "(2) rates and charges for or in connection with [electric service]. . . ." Union has not requested waiver of our filing requirements. Nontheless, Union has specified no proposed rates for firm power service or wheeling service. Furthermore, Union has not filed a comparison of revenues as required by Section 35.13(b)(1) or a statement of its cost of service as required by Section 35.13(b)(4)(i). Absent such information we are unable to determine under Section 206(a) of the Federal Power Act whether the proposed interconnection agreement

[1] The interchange contract was dated July 18, 1967, and is designated as Rate Schedule FPC No. 73, As Supplemented.

and attached service schedules are just and reasonable and in the public interest, particularly with regard to firm power and transmission service. Accordingly, we must reject Union's filing in Docket No. ER79–268.

We shall also reject Union's submittal in Docket No. ER79–267. The notice filed in that docket cannot be construed as an effective notice of proposed cancellation of the filed rate schedule pursuant to Section 35.15 of the Regulations. Such a construction of Union's submittal would strain the clear meaning of Section 35.15 which calls for the filing of a notice of cancellation "when a rate schedule or part thereof . . . is proposed to be cancelled or is to terminate by its own terms *and no new rate schedule or part thereof is to be filed in its place.* . . ." As indicated above, Union has expressly stated that it does not intend to terminate service to City and its transmittal letter accompanying the proposed notice of termination references the concurrently-filed superseding agreement. Giving independent effect to the termination notice under such circumstances would enable Union or any other utility to circumvent the intent of the Federal Power Act and our Regulations by utilizing an alternative notice of termination as a means of inducing a customer to negotiate new rates or terms.

In granting City's motion to consolidate these two dockets and reject the submittals, we note that such action is without prejudice to Union's refiling in accordance with our Regulations. In the meantime, rates, terms and conditions under the filed schedule shall continue to apply.

The Commission orders:(A) City is hereby permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission; *Provided, however,* that participation by such intervenor shall be limited to the matters set forth in its petition to intervene; and *Provided, further,* that the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(B) City's motion to consolidate Docket Nos. ER79–267 and ER79–268 and to reject Union's submittals in those dockets is hereby granted. Pending submittal of an acceptable filing by Union, the terms, conditions, and rates contained in the current interconnection agreement (Rate Schedule FPC No. 73, As Supplemented) shall continue to govern service between Union and City.

(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. 79–17309 Filed 6–4–79; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1240–6]

Availability of Environmental Impacts Statements

AGENCY: Office of Environmental Review, Environmental Protection Agency.

PURPOSE: This Notice lists the Envronmental Impact Statements which have been officially filed with the EPA and distributed to Federal Agencies and interested groups, organizations and individuals for review pursuant to the Council on Environmental Quality's Regulations (40 CFR Part 1506.9)

PERIOD COVERED: This Notice includes EIS's filed during the week of May 21 to May 25, 1979.

REVIEW PERIODS: The 45-day review period for draft EIS's listed in this Notice is calculated from June 1, 1979 and will end on July 16, 1979. The 30-day wait period for final EIS's will be computed from the date of receipt by EPA and commenting parties.

EIS AVAILABILITY: To obtain a copy of an EIS listed in this Notice you should contact the Federal agency which prepared the EIS. This Notice will give a contact person for each Federal agency which has filed an EIS during the period covered by the Notice. If a Federal agency does not have the EIS available upon request you may contact the Office of Environmental Review, EPA for further information.

BACK COPIES OF EIS'S: Copies of EIS's previously filed with EPA or CEQ which are no longer available from the originating agency are available from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

FOR FURTHER INFORMATION CONTACT: Kathi Weaver Wilson, Office of Environmental Review A–104, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 755–0780.

SUMMARY OF NOTICE: Appendix I sets forth a list of EIS's filed with EPA during the week of May 21 to May 25, 1979, the Federal agency filing the EIS, the name, address, and telephone number of the Federal agency contact for copies of the EIS, the filing status of the EIS, the actual date the EIS was filed with EPA, the title of the EIS, the State(s) and County(ies) of the proposed action and a brief summary of the proposed Federal action and the Federal agency EIS number if available. Commenting entities on draft EIS's are listed for final EIS's.

Appendix II sets forth the EIS's which agencies have granted an extended review period or a waiver from the prescribed review period. The Appendix II includes the Federal agency responsible for the EIS, the name, address, and telephone number of the Federal agency contact, the title, State(s) and County(ies) of the EIS, the date EPA announced availability of the EIS in the **Federal Register** and the extended date for comments.

Appendix III sets forth a list of EIS's which have been withdrawn by a Federal agency.

Appendix IV sets forth a list of EIS retractions concerning previous Notices of Availability which have been made because of procedural noncompliance with NEPA or the CEQ regulations by the originating Federal agencies.

Appendix V sets forth a list of reports or additional supplemental information on previously filed EIS's which have been made available to EPA by Federal agencies.

Appendix VI sets forth official corrections which have been called to EPA's attention.

Dated: May 31, 1979.

Peter L. Cook,

Acting Director, Office of Environmental Review.

Appendix I—EIS's Filed With EPA During the Week of May 21 to 25, 1979

DEPARTMENT OF AGRICULTURE

Contact: Mr. Barry Flamm, Coordinator, Environmental Quality Activities, Office of the Secretary, U.S. Department of Agriculture, Room 412A, Washington, D.C. 20250, (202) 447–3965.

Forest Service

Final

Landmark Planning Unit, Boise, NF, Valley, County, Idaho, May 23: Proposed are ten alternatives and a selected plan for the Landmark Planning Unit located in the Boise National Forest, Valley County, Idaho. It is proposed that, timber harvest would be phased in at optimum rates of 5 million board feet per year for a ten year period. The planning unit would be divided into seven management areas. Some features of the alternatives considered are: (1) Timber harvest, (2) sediment levels, (3) wilderness

study areas, (4) wildlife habitat values, and (5) recreation developments. (USDA–FS–R4–FES(ADM)–R4–78–10). Comments made by: HUD, DOE, DOI, EPA, USDA, DOC, State and local agencies, groups, individuals , and businesses. (EIS order No. 90519.)

High Uintas South Slope Land Management, Ashley NF, several counties, Utah, May 23: Proposed is a land management plan for the High Uintas South Slope, Ashley National Forest, in Daggett, Summit, Wasatch, Uintah and Duchesne Counties, Utah. The unit encompasses approximately 536,227 acres of land. The preferred alternative calls for the development of recreation facilities around the Central Utah Project Reservoirs in the canyon bottoms, and commodity production from the intervening plateaus. Also included in this statement is the High Uintas roadless area review. Four alternatives are considered (USDA–FS–R4–FES(ADM)–R4–78–9). Comments made by: OEO, USDA, HEW, HUD, DOI, State and local agencies, groups, individuals , and businesses. (EIS order No. 90521.)

Final

Salt Lake Planning Unit, Wasatch NF, several counties, Utah, May 21: Proposed is a land management plan for the Salt Lake Planning Unit, an area encompassing 138,000 acres of the Wasatch National Forest and other lands in Salt Lake, Utah, Morgan and Summit Counties, Utah. Four alternative plans outline resource management in areas such as air, water, recreation, wildlife, range forage, timber, insect and disease control, and mineral development. The proposed plan calls for 95 percent of the unit to remain relatively undisturbed except for trail construction, ski area expansion, and people-use associated with recreation activities, (FES–04–19–78–01). Comments made by: USDA, HUD, EPA, DOI, AHP, HEW, State and local agencies, groups, individuals , and businesses. (EIS order No. 90512.)

U.S. ARMY CORPS OF ENGINEERS

Contact: Dr. C. Grant Ash, Office of Environmental Policy, Attn: DAEN–CWR–P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue, S.W., Washington, D.C. 20314, (202) 693–6795.

Draft

Boggy Creek flood control, Colorado River, Travis County, Tex., May 24: Proposed is a flood control plan for the lower Boggy Creek watershed located in Austin, Travis County, Texas. The plan is primarily a structural solution providing for 2.16 miles of concrete-lined and 0.77 miles of transition and grass-lined improved channel. The plan would also preserve most of the structures along the right of way and provide for the development of additional recreational facilities adjacent to the stream, such as parks and hiking trails. Additionally, 54 acres of natural wooded area between Tannehill branch and Fort branch would be purchased and protected (Fort Worth District). (EIS Order No. 90527.)

Final

Madison Parish Port Improvement, Madison Parish, La., May 24: The proposed project concerns improvements to the Madison Parish port, Madison Parish, Louisiana. The actions involved are the creation of a 9 by 150 foot access channel and a 350 by 1,100 foot turning basin in a sandbar west of the main channel of the Mississippi river. Dredged material from construction and maintenance operations will be deposited in confined, upland areas designated for disposal. A total of 610,000 cubic yards of material will be removed from the sandbar during construction. The project will also include a fluting and berthing area that will be constructed by local interests (Vicksburg District). Comments made by: AHP, DOC, HEW, DOI, EPA, FERC, USDA, and State Agencies. (EIS Order No. 90525.)

Final

Clear Creek, local flood protection, Franklin, Warren County, Ohio, May 21: Proposed is the construction of a new channel between Beam Ditch and Main Street on Clear Creek in Franklin, Warren County, Ohio. The main features of the plan will include: (1) Channel realinement and widening of Clear Creek in the vicinity of Main Street to OH–123, (2) preservation of 1,200 feet of existing stream as a lowflow channel, (3) pool and riffle system in a new lowflow channel, (4) levee setback and crest wall improvements, and (5) recreation facilities for day use activities in the vicinity of the stream (Louisville District). Comments made by: DOI, EPA, FERC, USDA, HUD, State and local agencies, individuals. (EIS Order No. 90514.)

Draft Supplement

Kings Island Turning Basin, Savannah Harbor (DS–2), Chatham County, May 22: This statement supplements a final EIS (No. 60901) filed June 17, 1976, concerning the modification of Savannah Harbor in Chatham County, Georgia. This statement concerns disposal sites for the enlargement of the Kings Island turning basin with Savannah Harbor. The disposal sites addressed in the final EIS were later zoned for industrial use but became available again for use as disposal sites. The sites addressed in the final supplement EIS, No. 80994 filed 9–12–78 have become economically infeasible. The proposed sites are Argyle Island, Hutchinson Island and Georgia Ports Authority property (Savannah District). (EIS Order No. 90516.)

DEPARTMENT OF DEFENSE, ARMY

Contact: Col. Charles E. Sell, Chief of the Environmental Office, Headquarters DAEN–ZCE, Office of the Assistant Chief of Engineers, Department of the Army, Room 1E676, Pentagon, Washington, D.C. 20310, (202) 694–4269.

Final

Acquisition of maneuver area II, Fort Bliss, El Paso County, Tex., May 24: Proposed is the acquisition of lands comprising the training area known as maneuver area II located at Fort Bliss, El Paso County, Texas. Fee ownership could be acquired either by purchase or by land exchange. Segements of maneuver area I which could be applied towards acquisition by exchange are currently being used for a variety of training purposes. Projected military training missions call for increased utilization of the area following acquisition. Five alternatives are considered. Comments made by: USDA, EPA, DOI, State, and local agencies, groups. (EIS Order No. 90526.)

Environmental Protection Agency

Contact: Mr. John Ritch, Jr., Director, Office of Industry Assistance, Office of Toxic Substances TS–(799), Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460, Wash. D.C. No. 554–1404, Toll Free No. (800) 424–9065.

Final

PCB ban regulation manuf., processing, distrib., regulatory, May 23: This proposed rule is designed to implement section 6(E) of TSCA prohibiting the manufacturing, processing, distribution in commerce, and use of PCBS and to provide several limited exceptions. This rule requires that special warning labels be applied to large capacitors, transformers, and other PCB equipment, and regulates the disposal of PCBS. The regulation covers liquid PCBS and all other material and equipment components containing or having contained PCBS in concentrations of greater than 50 PPM. Comments made by: DOT, HEW, USDA, State and local agencies, groups, individuals, and businesses. (EIS Order No. 90470.)

Final

Contact: Mr. Wallace Stickney, Region I, Environmental Protection Agency, John F. Kennedy Federal Building, Room 2203, Boston, Massachusetts 02203, (617) 223–4635.

Montachusett-Nashua water quality program, Worcester and Middlesex Counties, Mass., May 25: The proposed action of this statement is the consideration of technical and management alternatives to deal with water quality problems of 14 municipalities in Worcester and Middlesex Counties, Massachusetts. Recommendations for action have been made in three categories: (1) land use control, (2) methods of controlling non-point sources of water pollution, and (3) methods of controlling point sources of water pollution. The alternatives considered are: (1) no action, (2) construction of sewer lines—direction of growth by providing public facilities; and (3) environmental protection—adoption of strong ordinances to protect the environment. Comments made by: DOI, EPA, USDA, State and local agencies, businesses. (EIS Order No. 90530.)

DEPARTMENT OF THE INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256 Interior Bldg., Department of the Interior, Washington, D.C. 20240, (202) 343–3891.

Bureau of Indian Affairs

Draft

Conveyance of Wildhorse Reservoir and lands, Elko County, Nev.: Proposed is the leasing of approximately 4,000 acres of water

and land area at Wildhorse Reservoir, in Elko County, Nevada, by the Duck Valley Shoshone-Paiute Indian tribes. Also included is the sponsoring of legislation whereby the above leased lands would be placed in trust status by the Federal Government for the benefit of the Duck Valley Indians. The alternatives considered include: (1) no action; (2) retain present administration of lands by BIA, but undertake further recreational development of area; and (3) lease or convey all or portions of the reservoir area to nontribal entities. (DES–79–26). (EIS Order No. 90523.)

BUREAU OF LAND MANAGEMENT

Draft

Caliente area domestic livestock grazing management, Lincoln County, May 25: Proposed is a domestic livestock grazing management program for the Caliente area in Lincoln County, Nevada. The plan recommends: (1) intensive grazing management systems on 27 proposed AMP areas consisting of 65 allotments encompassing 3,051,078 acres; (2) 12 non-AMP allotments encompassing 339,725 acres; and (3) no grazing on nine allotments encompassing 105,002 acres. The following would be established by allotment: (1) period-of-use for each class of livestock, (2) grazing capacity, (3) allocation of sufficient forage, (4) proper grazing treatment, and (5) necessary range improvements. (DES–79–28). (EIS Order No. 90528.)

Draft Supplement

1979 OCS oil and gas lease sale No. 42, Atlantic DS–1, Atlantic Ocean, May 22: This statement supplements a final EIS, No. 71056, filed 8–29–77, concerning the leasing of OCS tracts offshore of the North Atlantic States. This statement addresses basically the same action but reflects recent amendments to the OCS lands act. Proposed is the leasing of 128 tracts encompassing 728,728 acres of OCS lands offshore of southeastern New England with shore distance ranging from 63 to 157 miles. The tracts are situated in water depths that range from approximately 120 to 690 feet. Oil would be tankered to existing refineries in New Jersey or to Delaware River Basin areas. Pipelines would be used if natural gas is discovered and produced (DES–79–25). (EIS Order No. 90517.)

Geological Survey

Final

Coal resources development, southern Utah, several counties, Utah, May 23: The proposed action is based on three formal proposals for mining coal in Washington, Iron, Kane and Garfield Counties in Utah. This statement considers the cumulative impacts of potential coal developments in the region, and specific mining and reclamation plan analyses, involved as part of these projects are: (1) approval of three mining and reclamation plans on existing leases, and (2) a projected level of development that includes the Allen-Warner Valley energy system, a major electric power generation proposal (FES–79–21). Comments made by: AHP, EPA, USDA, HEW, HUD, DOI, DLAB, State agencies, groups, individuals, and businesses. (EIS Order No. 90524.)

NATIONAL PARK SERVICE

Draft

Colorado and lower Dolores wild and scenic rivers, Mesa County, Colorado, and Grand County, Utah, May 23: Proposed is the inclusion of segments of both the Colorado and lower Dolores River in the National Wild and Scenic River System. The rivers both flow through Mesa County, Colorado and Grand County, Utah. The Colorado River portion under consideration begins at the Loma launch site and ends downstream at its confluence with the Dolores River, a distance of 55.7 miles. On the Dolores River, the portion from Gateway, Colorado to its confluence with the Colorado River, a distance of 31 miles, and the lower 11 mile reach are considered for inclusion. Inclusion of these segments will also provide for the protection of approximately 33,000 acres of land. (EIS Order No. 90522.)

DEPARTMENT OF JUSTICE

Contact: Ms. Lois Schiffer, Chief, General Litigation, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530 (202) 633–2704

Bureau of Prisons

Draft Supplement

Federal detention center, Tucson, (DS–1), Pima County, Ariz., May 23: This statement supplements a draft EIS, No. 90240, filed March 2, 1979 concerning the construction of a new Federal detention center in Tucson, Pima County, Arizona, the site consists of 40 acres, 15 of which will be developed and will house approximately 200 Federal prisoners. This statement includes information concerning historical, archaeological, architectural and cultural elements. (EIS Order No. 90520.)

NEW ENGLAND RIVER BASINS COMMISSION

Contact: Mr. John Ehrenfeld, Chairman, New England River Basin Commission, 53 State Street, Boston, Massachusetts 02109, (617) 223–6244.

Draft

Lake Champlain Basin, water and land resource plan, several counties, Vt. and N.Y., May 21: Proposed is the lake Champlain basin study and level B water and related land resource plan. Lake Champlain is located in the states of Vermont and New York. The major objectives of the plan are: (1) to encorage a moderate rate of economic and population growth and distribution to accommodate a diversity of rural and urban lifestyles; (2) to protect the health, safety and welfare of users; (3) to preserve the existing high quality of basin land and waters; and (4) to achieve multiple resource use of and public access to basin land and waters, except where critical resources are endangered. (EIS order No. 90513.)

STATE DEPARTMENT

Contact: Mr. William H. Mansfield, III, Office of Environmental Affairs, Department of State, Washington, D.C. 20520, (202) 632–2418.

Draft

Conservation of Migratory Species of Wild Animals, national, May 25: Proposed is the negotiation of a treaty to conclude the international conservation proposed by the Federal Republic of Germany for the conservation of migratory species of wild animals. The convention would establish international converation principles and guidelines, to which signatory nations would subscribe, and which would be applied by the signatories in taking needed national protective measures and in developing more geographically specific international agreements for joint conservation and management of those migratory species which they have in common. (EIS order No. 90531.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street, SW., Washington, D.C. 20590, (202) 426–4357.

Federal Highway Administration

Draft

Extension of Tidelands Avenue and "E", Chula Vista, San Diego, County, Calif., May 25: Proposed is the extension of Tidelands Avenue and "E" Street in the city of Chula Vista, San Diego County, California. Tidelands Avenue will ultimately extend northward from "J" Street to and beyond the Chula Vista/National City Corporate boundary. This project will essentially provide a missing link of Tidelands Avenue to connect the Chula Vista and National City Bayfront Areas. A remaining portion of Tidelands Avenue between "E" Street and "G" Street, will be constructed as a separate project. Upon completion of the total project, Tidelands Avenue will provide a parallel route to I–5 (FHWA–CA–EIS–78–03–D). (EIS order No. 90529)

Revere Beach connector highways construction, Suffolk, County, Mass., May 21: Proposed is the construction of a new four-lane divided, limited access, East-West Highway across the northern section of Revere, Suffolk, County, Massachusetts. The highway is informally known as the Revere Beach connector, to be offically named the Senator Harry Della Russo Highway. The highway will begin at the intersection of Revere Street and Ocean Avenue and end at the Cutler Circle interchange with US 1. The facility is proposed to drop to two-lanes between North Shore Road and Ocean Avenue. In addition to no build, two build alternatives are considered (FHWA–MA–EIS–79–01–D). (EIS order No. 90515.)

Final

I–85/I–285 separation, Red Oak-Clayton Co., Line, Fulton County, Ga., May 22: Proposed is the separation of I–85/I–285 into independent interstate limited-access facilities where they are now in a common section located in Fulton County, Georgia. The separation would begin at the I–85/I–285/SPUR 14 interchange and follow an alignment eastward for 1.3 miles to the I–85

Airport Loop interchange at the Clayton County Line. In addition to no-build, three other alternatives are considered which involve improvement of the existing roadway and modified separations (FHWA–GA–EIS–77–06–F). Comments made by: FERC, COE, HEW, EPA, DOT, USDA, State and Local agencies, individuals, and businesses. (EIS order No. 90518.)

EIS's Filed During the Week of May 21 to 25, 1979

[Statement Title Index—By State and County]

State	County	Status	Statement title	Accession No.	Date filed	Original Agency No.
Arizona	Pima	Supple	Federal Detention Center, Tucson (DS–1)	90520	05–23–79	DJUS
Atlantic Ocean		Supple	1979 OCS Oil and Gas Lease Sale No. 42, Atlantic DS–1.	90517	05–22–79	DOI
California	San Diego	Draft	Extension of Tidelands Avenue and "E", Chula Vista.	90529	05–25–79	DOT
Colorado	Mesa	Draft	Colorado and Lower Dolores Wild and Scenic Rivers.	90522	05–23–79	DOI
Georgia	Chatham	Supple	Kings Island Turning Basin, Savanah Harbor (DS–2)	90516	05–22–79	COE
	Fulton	Final	I–85/I–285 Separation, Red Oak-Clayton Co. Line	90518	05–22–79	DOT
Idaho	Valley	Final	Landmark Planning Unit, Boise NF	90519	05–23–79	USDA
Louisiana	Madison	Final	Madison Parish Port Improvement	90525	05–24–79	COE
Massachusetts	Middlesex	Final	Montachusett-Nashua Water Quality Program	90530	05–25–79	EPA
	Suffolk	Draft	Revere Beach Connector Highway, Construction	90515	05–21–79	DOT
	Worcester	Final	Montachusett-Nashua Water Quality Program	90530	05–25–79	EPA
National		Draft	Conservation of Migratory Species of Wild Animals	90531	05–25–79	STAT
Nevada	Elko	Draft	Conveyance of Wildhorse Reservoir and Lands	90523	05–23–79	DOI
	Lincoln	Draft	Caliente Area Domestic Livestock Grazing Management.	90528	05–25–79	DOI
New York		Draft	Lake Champlain Basin, Water and Land Resource Plan.	90513	05–21–79	NERB
Ohio	Warren	Final	Clear Creek, Local Flood Protection, Franklin	90514	05–21–79	COE
Regulatory		Final	PCB Ban Regulation, Manuf., Processing, Distrib	90470	05–23–79	EPA
Texas	El Paso	Final	Acquisition of Maneuver Area II, Fort Bliss	90526	05–24–79	USA
	Travis	Draft	Boggy Creek Flood Control, Colorado River	90527	05–24–79	COE
Utah	Grand	Draft	Colorado and Lower Dolores Wild and Scenic Rivers.	90522	05–23–79	DOI
	Several	Final	Salt Lake Planning Unit, Wasatch NF	90512	05–21–79	USDA
		Final	High Uintas South Slope Land Management, Ashley NF.	90521	05–23–79	USDA
		Final	Coal Resources Development, Southern Utah	90524	05–23–79	DOI
Vermont		Draft	Lake Champlain Basin, Water and Land Resource Plan.	90513	05–21–79	NERB

Appendix II.—*Extension/Waiver of Review Periods on EIS's Filed With EPA*

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in "Federal Register"	Waiver/ extension	Date review terminates
DEPARTMENT OF JUSTICE					
Ms. Lois Schiffer, Chief, General Litigation, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, (202) 633–2704	Federal Detention Center, Tucson, Arizona.	Draft supplement 90520	06–05–79. See Appendix I.	Waiver	07–01–79
NEW ENGLAND RIVER BASIN COMMISSION					
Mr. John Ehrenfeld, Chairman, New England River Basins Commission, 53 State Street, Boston, Massachusetts 02109, (617) 223–6244.	Lake Champlain Basin, Water and Land Resource Plan.	Draft 90513	06–05–79. See Appendix I.	Extension	07–31–79

Appendix III.—*EIS's Filed With EPA Which Have Been Officially Withdrawn by the Originating Agency*

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in "Federal Register"	Date of withdrawal
None.				

Appendix IV.—*Notice of Official Retraction*

Federal agency contact	Title of EIS	Status/number	Date notice published in "Federal Register"	Reason for retraction
U.S. ARMY CORPS OF ENGINEERS				
Dr. C. Grant Ash, Office of Environmental Policy, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue, SW., Washington, D.C. 20314, (202) 693-6795.	Cazenovia Creek Watershed, Flood Management (2).	Final 90464	05-11-79	Distribution of the FEIS has not been completed.

Appendix V.—*Availability of Reports/Additional Information Relating to EIS's Previously Filed With EPA*

Federal agency contact	Title of Report	Date made available to EPA	Accession No.

Appendix VI.—*Official Correction*

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in "Federal Register"	Correction
None.				

[FR Doc. 79-17395 Filed 6-4-79; 8:45 am]
BILLING CODE 6560-01-M

[FRL 1239-7; OPP-50429]

Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 275-EUP-22. Abbott Laboratories, North Chicago, Illinois 60064. This experimental use permit allows the use of 112,000 billion international units of the insecticide *Bacillus thuringiensis* Berliner on field crops and forest, ornamental, and shade trees to evaluate control of lepidopterous larvae. A total of 25,000 acres is involved; the program is authorized only in the States of Alabama, Arizona, Arkansas, California, Florida, Georgia, Indiana, Kansas, Kentucky, Louisiana, Maine, Mississippi, New Jersey, New Mexico, New York, North Carolina, Ohio, Pennsylvania, Texas, and Virginia. The experimental use permit is effective from May 1, 1979 to May 1, 1980. (PM-17, Room: E-229, Telephone 202/426-9425)

No. 11273-EUP-16. Sandoz, Inc., San Diego, California 92108. This experimental use permit allows the use of 86,400 billion international units of the insecticide *Bacillus thuringiensis* Berliner on forest trees to evaluate control of lepidopterous larvae. A total of 2,100 acres is involved. The experimental use permit is also effective from May 15, 1979 to May 15, 1980.

No. 11273-EUP-17. Sandoz, Inc., San Diego, California 92108. This experimental use permit allows the use of 75,600 billion international units of the insecticide *Bacillus thuringiensis* Berliner on forest trees to evaluate control of lepidopterous larvae. A total of 1,900 acres is involved; this program and the one above are authorized only in the States of California, Maine, Michigan, Minnesota, New Mexico, New York, North Dakota, Oregon, Pennsylvania, Washington, and Wisconsin. This experimental use permit is effective from May 15, 1979 to May 15, 1980. (PM-17, Room: E-229, Telephone: 202/426-9425)

Interested parties wishing to review the experimental use permits are referred to the designated Product Manager (PM), Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street SW., Washington, D.C. 20460. The descriptive paragraph for each permit contains a telephone number and room number for information purposes. It is suggested that interested persons call before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. The files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

(Sec. 5, Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; (7 U.S.C. 136))

Dated: May 29, 1979.

Douglas D. Campt,

Director, Registration Division.

[FR Doc. 79-17404 Filed 6-4-79; 8:45 am]
BILLING CODE 6560-01-M

[FRL 1239-6]

Regulation of Fuel and Fuel Additives; MMT—Suspension of Enforcement

AGENCY: Environmental Protection Agency.

ACTION: Notice of Suspension of Enforcement.

SUMMARY: EPA is suspending enforcement of the statutory ban of the gasoline additive methylcyclopentadienyl manganese tricarbonyl (MMT) up to a concentration of 1/32 gram until October 1, 1979.

DATES: The enforcement suspension is effective immediately. Enforcement will resume October 1, 1979.

FOR FURTHER INFORMATION CONTACT: Robert A. Weissman, Attorney, Office of Enforcement, at (202) 755-2816.

SUPPLEMENTARY INFORMATION: Section 211(f)(3) of the Clean Air Act, as amended, 42 U.S.C. 7545(f)(3), prohibits the distribution in commerce after September 15, 1978, of fuels or fuel additives not substantially similar to any fuels or fuel additives utilized in the certification of any model year 1975 or subsequent year motor vehicle or engine. Section 211(f)(4) permits the Administrator to grant a waiver of the 211(f)(3) prohibition if an applicant establishes that the fuel or additive will not cause or contribute to the failure of any emission control device or system (over the useful life of any vehicle) such that the vehicle will fail to comply with emission standards for which it has been certified.

On September 18, 1978 (43 Fed. Reg. 41424), the Administrator denied the request of the Ethyl Corporation for a waiver for MMT at concentrations of 1/16 and 1/32 grams of manganese per gallon of gasoline. The decision was

based on a failure by Ethyl to show that MMT will not cause or contribute to a failure of vehicles to meet emission standards. The Administrator further found that MMT will cause or contribute to the failure of vehicles to meet their designed hydrocarbon (HC) emission standard.

It was found that over the useful life of vehicles, from data from vehicles which had accumulated 50,000 miles, a greater numbr of MMT-fueled vehicles will fail their designed HC standard than corresponding vehicles fueled without MMT. Data suggests that the build-up of MMT deposits which adversely affects HC emissions does is not substantially manifest until about 5,000 miles of driving. In addition, there is also evidence indicating that a vehicle fueled with MMT, but then operated on clean fuel, will recover to HC emission levels without showing adverse effects of MMT use. However, this data is scanty and we cannot with any confidence draw conclusions from it.

At present, a serious shortage of gasoline exists and is predicted to last throughout the summer. Shortages of unleaded gasoline are of particular concern to EPA. These shortages may lead to increased use of leaded gasoline in vehicles equipped with catalytic converters, causing significant irreversible increases in exhaust HC and carbon monoxide emissions.

Use of MMT by the refining industry this summer will allow refiners to shift a substantial percentage of gasoline production to unleaded gasoline. While this will do little to aid the overall gasoline shortage, it should assist in preventing shortages of unleaded gasoline and thus reduce levels of fuel switching from what could otherwise be expected.

I have carefully weighed the relative impacts on the environment, and decided that the small short-term effect on HC emissions that will occur due to MMT use this summer is outweighed by the increased percentage of unleaded gasoline likely to result from such use. Therefore, I am suspending enforcement of section 211(f) of the Clean Air Act as it pertains to MMT use in gasoline at concentrations of 1/32 gram per gallon or less. This suspension is effective immediately and terminates on October 1, 1979.

Dated: May 31, 1979.

Douglas M. Costle,

Administrator.

[FR Doc. 79-17403 Filed 6-4-79; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10423 or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Lousiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, within *20* days after the date of the **Federal Register** in which this notice appears. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is 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.: T-3712-2.

Filing Party: E. F. Brimo, Treasurer, Global Terminal & Container Services, Inc., P.O. Box 273, Jersey City, New Jersey 07303.

Summary: Agreement No. T-3712-2, between Global Terminal & Container Services, Inc. (Global) and Italian Line (IL) modifies the parties' basic agreement whereby Global provides and performs for IL container terminal stevedoring and LCL cargo handling services for containers and Ro/Ro cargo, to be loaded onto or discharged from full cellular container vessels and combination Ro/Ro container vessels at the Port of New York. The purpose of the modification is to change the term of the agreement to end May 31 1980, instead of May 31, 1979. In addition, subparagraph (5) of the description of "Container Yard Activity" given in Section II is changed to read 550 empty containers rather than 500 empty containers. Also, Schedule A, Section II, LCL Cargo Handling rate (CFS Rate) is amended to read: "Stuffing and Stripping of Containers, $25.00 per short ton (Labor portion of rate, $21.75)."

Agreement No. 9522-39.

Filing Party: Marc J. Fink, Esq., Billing, Sher & Jones, P.C., Suite 300, 2033 K Street, N.W., Washington, D.C. 20006.

Summary: Agreement No. 9522-39 modifies the Med-Gulf Conference Agreement to provide that the Marseilles Committee may take action in response to a shipper request or complaint by telephone, telex or circular telex poll only upon the concurrence of all the members. Less one, of that Committee.

By Order of the Federal Maritime Commission.

Dated: May 30, 1979.

Francis C. Hurney,

Secretary.

[FR Doc. 79-17295 Filed 6-4-79; 8:45 am]

BILLING CODE 6730-01-M

Certificates of Financial Responsibility (Alaska Pipeline); Certificates Revoked

Notice of voluntary revocation is hereby given with respect to Certificates of Financial Responsibility (Alaska Pipeline) which had been issued by the Federal Maritime Commission, covering the below indicated vessels, pursuant to Part 543 of Title 46 CFR and subsection (c) of section 204, Trans-Alaska Pipeline Authorization Act.

Certificate No.	*Operator and Vessels*
99021	Gulf Oil Corporation: *Gulfseal.*
99028	United Tanker Corporation: *Eagle Charger. Eagler Leader.*

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 79-17293 Filed 6-4-79; 8:45 am]

BILLING CODE 6730-01-M

Certificates of Financial Responsibility (Alaska Pipeline); Certificates Issued

Notice is hereby given that the following operators have established evidence of financial responsibility, with respect to the vessels indicated, as required by subsection (c) of section 204, Trans-Alaska Pipeline Authorization Act, and have been issued Federal Maritime Commission Certificates of Financial Responsibility (Alaska Pipelines) pursuant to Part 543 of Title 46 CFR.

Certificate No.	*Operator and Vessels*
99081	First United Shipping Corporation: *Western Loin.*
99082	Second United Shipping Corporation: *Northern Lion.*
99083	Third United Shipping Corporation: *Eastern Lion.*
99085	Tranidad Corporation: *Glacier Bay, Sohio Intrepid, Sohio Resolute, Prince William Sound.*
99086	Serpentsea Corporation: *Mt. Cabrite.*
99087	Swansea Corporation: *Saint Lucia.*
99088	American Shipping, Inc.: *Beaver State.*
99090	Cove Ships Inc.: *Cove Sailor.*
99091	Rio Grande Transport, Inc.: *Ogden Charger.*
99092	Sequoia Tankers, Inc.: *Coastal California.*

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 79-17294 Filed 6-4-79; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 78G-0399]

The Pillsbury Co., Withdrawal of Petition for Affirmation of GRAS Status

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document announces the withdrawal without prejudice of the petition (GRASP-8G0092) proposing that 0.02 percent karaya gum (sterculia gum) in baked goods and baking mixes be affirmed as generally recognized as safe (GRAS).

FOR FURTHER INFORMATION CONTACT: Corbin I. Miles, Bureau of Food (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-4750.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b), 72 Stat. 1786 (21 U.S.C. 348(b))), the following notice is issued:

In accordance with § 171.7 *Withdrawal of petition without prejudice* of the procedural food additive regulations (21 CFR 171.7), The Pillsbury Co., 311 Second Street SW., Minneapolis, MN 55414, has withdrawn its petition (GRASP-8G0092), notice of which was published in the **Federal Register** of December 22, 1978 (43 FR 59907), proposing that 0.02 percent karaya gum (sterculia gum) in baked goods and baking mixes be affirmed as GRAS.

Dated: May 25, 1979.

Sanford A. Miller,

Director, Bureau of Foods

[FR Doc. 79-17171 Filed 6-4-79; 8:45 am]

BILLING CODE 4110-03-M

Food and Drug Administration

Privacy Act; New System of Records

Correction

In FR Doc. 79-16720 appearing at page 30765 in the issue for Tuesday, May 29, 1979, the first and last sentences under "DATES" on page 30766 should read as follows: "HEW will adopt the routine uses of the system of records without further notice on June 28, 1979, unless HEW receives comments which would result in a contrary determination within the 30 day comment period * * *. The routine use provision will be effective on the date of the waiver or on June 28, 1979, whichever is later."

BILLING CODE 1505-01-M

Office of Assistant Secretary for Health

Health Care Technology Study Section; Amended Notice of Meeting

Notice is hereby given of the change in the meeting of the Health Care Technology Study Section, National Center for Health Services Research, Office of Health Research, Statistics, and Technology on June 11-13, 1979, scheduled in Georgetown Health Plan Board Room, 4200 Wisconsin Avenue, N.W., Washington, D.C. 20016 which was published in the **Federal Register** on May 14, 1979, (Vol. 44, No. 94, page 28108).

The meeting site has been changed to the Executive Faculty Room, Room Northeast 201, Second Floor, Medical-Dental Building, 3900 Reservoir Road, N.W., Washington, D.C. 20007. The dates and times remain the same.

Marilyn McCarroll,

Executive Secretary, Office of Health Research, Statistics, and Technology.

[FR Doc. 79-17322 Filed 6-4-79; 8:45 am]

BILLING CODE 4110-85-M

Office of Education

National Advisory Council on Extension and Continuing Education; Amendment to Notice of Meeting

AGENCY: National Advisory Council on Extension and Continuing Education.

ACTION: Amendment to notice of meeting.

SUMMARY: The **Federal Register** Notice on Friday, May 18, 1979, (Vol. 44, No. 98, Page 29165) of the meeting of the National Advisory Council on Extension and Continuing Education is hereby amended to include a swearing-in ceremony of members newly appointed by the President to the Council.

The ceremony will be conducted from 6:00 P.M. to 7:30 P.M. on Wednesday, June 13, 1979 in the Century Room of the Plaza Cosmopolitan, 1780 Broadway, Denver, Colorado. The Education Commission of the States will co-host the function.

This amendment is to notify the general public of their opportunity to attend.

Dated: May 31, 1979.

William G. Shannon,

Executive Director.

[FR Doc. 79-17348 Filed 6-4-79; 8:45 am]

BILLING CODE 4110-02-M

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 delete the Office of Management from the Office of Education and to change the title of the Office of the Executive Deputy Commissioner for Management, Budget, and Evaluation to the Office of the Executive Deputy Commissioner for Resources and Operations. The five Divisions of the Office of Management will now report directly to the Executive Deputy Commissioner for Resources and Operations.

Any changes in the functional statements of the affected organizations are minor or technical in nature. To easily depict the administrative portion of the Office of Education, functional statements for the Office of the Executive Deputy Commissioner for Resources and Operations are printed at (2) below.

The specific changes are as follows:

(1) The title and statement for the Office of Management published at 39 FR 15342 (5/2/74) are deleted in their entirety;

(2) The previously published titles and statements for the organizations presented below are deleted in their entirety to be replaced by the following immediately after the title and statement for the Editorial Services Division, Office of Public Affairs:

Office of the Executive Deputy Commissioner for Resources and Operations (EEE)

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 schedules 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 budget, grants and contracts, finance, personnel administration, audits, regulation development, administrative services and Agency management and operations.

Division of Administrative Services (EEES)

Performs administrative services in areas such as mail, procurement, property, office space, equipment, printing, travel, routine public inquiries, and agent cashier.

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 Finance (EEEF)

Plans, develops, and executes an integrated system of financial policy, procedure, and standards for operations; operates a central system of transaction accounting, reporting, and certification of the availability of funds.

Division of Grant and Procurement Management (EEEG)

Provides contract management policy and procedure and directs the negotiation and administration of contracts and discretionary grants awarded by all components of the Office of Education; inventories, maintains accountability, and manages utilization of Government property held by contractors/grantees.

Horace Mann Learning Center (EEEH)

Provides significant creative contributions toward the solution of critical national education issues and the state of education in America. This is accomplished by assembling distinguished educational scholars in forums and seminars and through comprehensive staff development and training programs for Office of Education employees, following the goals and objectives set by the Division of Personnel Administration in the areas of personnel management and labor relations.

First, specialized career development which is designed to assist employees in developing work skills to perform their assignments more effectively and to advance themselves within the organization. Included are: Orientation for new employees, an office skills laboratory, a secretarial workshop, OE participation in the Congressional Fellowship and Federal Executive Institute programs, on-the-job training for guaranteed student loan lender examiners, a management development project, upward mobility and stride intern programs.

Second, academic development which includes development of flexible curricula by formal agreements with degree granting institutions to provide academic programs specifically designed for Office of Education employees.

Third, national dialogues on education which bring together Office of Education employees and outside experts in education and allied areas. Included are forums where distinguished scholars and experts in allied areas share their new developments with each other and the policymakers in education, a teacher of the year lecture, a student panel comprised of Presidential scholars, education in America seminars whereby experts are invited to share their views on the state of education in America, and global education seminars focusing upon "education in the world" in order to show the comity of America's educational concerns and those of other nations.

Division of Management Systems and Analysis (EEEM)

Develops policies, plans, and goals for organizational structure, management systems, and manpower allocation and utilization; conducts management studies and manpower analysis; coordinates development of management information systems and data processing systems; evaluates and reports on the overall effectiveness of Office of Education organization and management, provides ADP systems analysis and programming services, monitors contracts providing computer programming support, and maintains liaison with the Data Management Center on computer operations and services. Responsible for the administrative budget of the Office of Education, delegations of authority, the employee suggestion awards system, issuance management, correspondence and records management, and the management improvement system.

Division of Personnel Administration (EEEP)

Provides personnel management policy and procedures and interpretation of Civil Service Commission and Department personnel standards for all elements for the Office of Education. Services rendered include: Position classification; employment and placement screening and referral; employee relations and services; labor management relations; and personnel action processing and records maintenance. The Division also develops technical goals and objectives for supervisory, personnel management, and labor relations training plans, and as necessary, in other areas to meet Office of Personnel Management and Departmental requirements for the agency, including retirement and career counseling.

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 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.

Office of Evaluation and Dissemination (EEEY)

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 Assistant 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.

Division of Education Replication (EEEY2)

Develops and implements policies concerning the dissemination and diffusion activities administered by the Office of Education. Has primary operational responsibility for programs to facilitate the adoption of successful educational practices, including the National Diffusion Network. Maintains the master file of, and disseminates 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.

Division of Elementary and Secondary Programs (EEEY3)

Is responsible for evaluating the effectiveness of Office of Education programs in the area of elementary and secondary education. Designs and directs major national evaluation studies and develops program policy recommendations on the basis of the studies.

Develops evaluation standards and models for use by the States and local educational agencies in evaluating programs supported by Title I of the Elementary and Secondary Education Act. Identifies and packages exemplary educational practices and products, tests them, and recommends them for dissemination. Analyzes proposed Office of Education operational planning system objectives and monitors their implementation. Reviews materials submitted for five-year program and financial plan to assure incorporation of the latest evaluation information. Prepares analysis papers supporting the planning-programming-budgeting system.

Division of Occupational, Handicapped and Developmental Programs (EEEY4)

Is responsible for evaluating the effectiveness of Office of Education programs in the areas of occupational and adult education, education for the handicapped, Indian education, libraries, educational technology, dissemination, statistics, education professions development, and other developmental fields. Designs and directs major national evaluation studies and develops program policy recommendations on the basis of the studies. Develops and maintains a system or reports from the States on their receipt and use of Federal funds under assistance programs. Analyzes proposed Office of Education operational planning system objectives and monitors their implementation. Review materials submitted for five-year program and financial plan to assure incorporation of the latest evaluation information. Prepares analysis papers supporting the planning-programming-budgeting system.

Division of Postsecondary Programs (EEEY5)

Is responsible for evaluating the effectiveness of Office of Education programs in the area of postsecondary and international education. Designs and directs major national evaluation studies and develops program policy recommendations on the basis of the studies. Analyzes proposed Office of Education operational planning system objectives and monitors their implementation. Reviews materials submitted for five-year program and financial plan to assure incorporation of the latest evaluation information. Prepares analysis papers supporting the planning-programming-budgeting system.

Dated: May 24, 1979.

L. D. Taylor,

Acting Assistant Secretary for Management and Budget.

[FR Doc. 79-17324 Filed 6-4-79; 8:45 am]

BILLING CODE 4110-02-M

Office of Human Development Services

[Program Announcement No. 13612-791]

Administration for Native Americans; Native Hawaiian Economic Development Program

AGENCY: Administration for Native Americans.

SUBJECT: Announcement of availability of Fiscal Year 1979 grant funds for one Native Hawaiian Economic Development project in the State of Hawaii.

SUMMARY: The Administration for Native Americans (ANA) announces that applications are being accepted for a grant under section 803 of the Native American Programs Act of 1974, Pub. L. 93-644, as amended in 1978 by Pub. L. 95-568. Regulations governing this program are published in the Code of Federal Regulations in 45 CFR Part 1336.

DATES: The closing date for the receipt of applications is July 30, 1979.

Program Purpose

The Program's purpose is to improve the economic well-being of the Native Hawaiian population in the State of Hawaii.

Program Goal and Objectives

The goal of this Program is to increase the economic self-sufficiency of a specific community within the Native Hawaiian population in Hawaii. Financial assistance will be provided to a Native Hawaiian organization to be used as a catalyst for economic growth, for establishing a viable community-based economic institution and/or for increasing Native Hawaiian participation in the economy of the State of Hawaii. However, assurance must be provided that the proposed project will in no manner replace or duplicate economic related activities supported by another Federal or State agency.

The expected project period will be for three years and all applications should include objectives for each of the three years with clear explanation as to

how one year's funding relates to the other two.

The objectives should be designed to enhance economic opportunities for Native Hawaiians and may include but not necessarily be limited to one or more of the following:

(1) Development of a project designed to increase Native Hawaiian ownership of business and/or to assist those Native Hawaiian businesses already established;

(2) Development of a specific Native Hawaiian community owned enterprise in any of a number of areas. This objective could be oriented toward an agricultural or aquacultural project which would increase the economic stability and livelihood of a given community; or

(3) A project designed to create or increase Native Hawaiian employment opportunities and/or employability of community members. Such a project might, for instance, be related to development of a job/skills bank, matching individual Native Hawaiian skills with available jobs. A sub-objective might be to develop an affirmative action plan in conjunction with appropriate State/local agencies and/or private employers.

The economic feasibility or viability of the project must already be determined and must be clearly presented in the application. Additionally, the application must provide objective(s) for interacting and coordinating with appropriate Federal, State or local governmental agencies or community-based projects with economic development responsibilities.

It is the policy of ANA to make training and technical assistance available to each of its grantees. This support is provided over and above the regular grant award. All applications should, therefore, include a plan specifying the training and technical assistance which will be required to support the proposed project objectives. The plan must provide time frames which correspond appropriately to the time frames of the project activities.

All applications must demonstrate that after three years of ANA support the proposed project will be: (1) Self-sufficient or (2) completed and therefore no longer in need of financial support or (3) supported by another funding source.

Eligible Applicants

Any public or private non-profit Native Hawaiian organization in Hawaii governed by an openly and publicly elected Board of at least 51% of Native Hawaiians, and not presently receiving ANA funding, may apply for a grant under this program announcement.

We encourage applicants, where feasible, to develop their applications jointly with other Native Hawaiian organizations, or colleges, universities, community agencies or business and industry interests. Projects with multi-organizational support or the potential of future joint funding will be given special consideration.

Available Funds

The Administration for Native Americans expects to award approximately $75,000 to $100,000 in Fiscal Year 1979 for a single project under this program announcement. The budget period for this grant will be up to three years, and in approximately the same amount of funding for each year. Refunding on a non-competitive basis beyond the first year will depend upon the grantee's satisfactory performance of the project, upon the availability of funds, and upon the grantee's compliance with the Native American Programs Rules and Regulations.

Grantee Share of Project

It is expected that grantees will provide 20% of the approved cost of the project. Grantee contributions may be in cash or in kind, fairly evaluated, including, but not limited to, plant, equipment, and services. The contributions must be project related and must be allowable under the Department's applicable cost principles in 45 CFR Part 74, Subparts Q and G.

Under certain circumstances, some or all of the non-Federal share of the project may be waived by ANA. Further explanation is contained in § 1336.52 of ANA's Regulations which will be provided in the Application Kit.

The Application Process

Availability of Application Forms. In order to be considered for a grant under the Native Hawaiian Economic Development Program, an application must be submitted on the standard forms provided for this purpose and in the manner prescribed by ANA. Application kits containing the necessary forms as well as supplemental descriptive project information for the applicants may be obtained from:

Administration for Native Americans, Room 357–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, D.C. 20201, Attention: 13612–791, Telephone: (202) 426–3940, Attention: Ms. Janice B. Phalen.

Application Submission. One signed original and six copies of the grant application, including all attachments, must be submitted to the address specified in the Application Kit. The application shall be executed by an individual authorized to act for the applicant agency and to assume for the agency the obligations imposed by the terms and conditions of the grant award, including Native American Program Rules and Regulations.

A–95 notification process. In compliance with the Department of Health, Education, and Welfare's implementation of the Office of Management and Budget Circular No. A–95 (Revised Interim procedures at 41 FR 3160, July 29, 1976), applicants who request grant support must, prior to submission of an application, notify both the State and Areawide Clearinghouses of the intent to apply for Federal assistance. Applicants should contact the State of Hawaii Clearinghouse for information on how they can meet the A–95 requirements.

Application consideration. The Commissioner of ANA determines the final action to be taken with respect to each grant application for this Program. Applications which do not conform to this program announcement or are not complete will not be accepted for review and applicants will be notified in writing accordingly. Applications which are complete and conform to the requirements of this program announcement are subjected to a competitive review and evaluation by qualified persons independent of the Administration for Native Americans. The results of the review assist the Commissioner in the consideration of competing applications. The Commissioner's consideration also takes into account comments of the A–95 Clearinghouse, the ANA staff and other interested parties.

After the Commissioner has reached a decision either to disapprove or to fund a competing grant application, unsuccessful applicants are notified in writing of this decision. Successful applicants are notified in writing and by the issuance of a Notice of Grant Awarded (NGA) which sets forth the amount of funds granted, the purpose of the grant, the terms and conditions of the grant award, the effective date of the award, the budget period for which support is given, and the amount of grantee participation. The NGA also specifies the total project period for which support is contemplated.

Criteria for Review and Evaluation of Applications

Competing grant applications will be reviewed and evaluated against the following criteria:

1. Project Design (0–65 points).

The quality of the project design as indicated by such factors as:

(a) A detailed budget with justification indicating resonableness of estimated cost in relation to anticipated results (7 points).

(b) A specific training and technical assistance plan which corresponds to project goals and objectives (5 points).

(c) Ample evidence of the economic viability of the proposed project (5 points).

(d) The degree to which the proposed project objectives are capable of achieving the specific grant program objective(s) defined in the announcement (10 points).

(e) The proposed activities, if well executed, will achieve the project objectives (15 points).

(f) There are specific, quantifiable (measurable) objectives and activities for the first year, and a clear outline of the objectives and procedures, including a time frame, for the following two years (15 points).

(g) There is demonstrated in the application that the proposed project will be completed, self-sustaining, or supported by other resources by the end of the project period (8 points).

2. Organizational Capability (0–12 points).

The soundness of the organizational capability as evidenced by such factors as:

(a) The proposed project staff are, or will be, well-qualified to carry out the project objectives and activities (10 points).

(b) The applicant organization has adequate facilities to effectively carry out the task of the proposed project (2 points).

3. Other (0–23 points).

(a) There is evidence of endorsement and support from the specific Native Hawaiian community in which the project will be located (8 points)

(b) The project demonstrates a sound plan for linkages with other agencies or community based projects or has been developed jointly with other agencies or organizations (8 points)

(c) The project indicates a good possibility of joint funding with another financial resource (7 points).

Closing Date for Receipt of Applications

The closing date for receipt of applications under this Program Announcement is July 30, 1979. Hand-delivered applications are accepted during normal working hours of 9 a.m. to 5 p.m.

An application will be considered to have arrived by the closing date if:

a. The application is at the HDS Receiving Office on or before the closing date, or;

b. The application is postmarked on or before the closing date as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or by an original receipt from the U.S. Postal Service.

Late applications are not accepted, and applicants are notified accordingly.

(Catalog of Federal Domestic Assistance Program No. 13–612, Native American Programs)

Dated: May 11, 1979.

A. David Lester,

Commissioner, Administration for Native Americans.

Approved: May 31, 1979.

Arabella Martinez,

Assistant Secretary for Human Development Services.

[FR Doc. 79–17351 Filed 6–4–79; 8:45 am]

BILLING CODE 4110–92–M

[Program Announcement No. 13612–793]

Administration for Native Americans; Social Development Program

AGENCY: Administration for Native Americans.

SUBJECT: Announcement of availability of Fiscal Year 1979 and/or 1980 grant funds for the Social Development Program.

SUMMARY: The Administration for Native Americans (ANA) announces that applications are being accepted for Social Development Program grants under section 803 of the Native Americans Program Act of 1974, Pub. L. 95–568. Regulations covering this program are published in the Code of Federal Regulations in 45 CFR Part 1336.

DATES: The closing date for the receipt of applications is July 30, 1979.

Program Purpose

The purpose of the Indian Social Development Program is to promote social self-sufficiency for Indian people.

Program Goal and Objectives

The goal of the program is to provide financial assistance to reservation tribes, rural, non-reservation tribes and Indian organizations and urban Indian centers in order to assist them develop the social foundations necessary for increased self-sufficiency.

ANA is interested in funding projects which will result in tangible benefits to the community beyond the project period.

The objectives developed by the applicant to meet this goal must relate to clearly identified community needs, and must be both quantifiable and measureable. The objectives must clearly specify the tangible results which are anticipated at the end of the project period. If funding is requested for more than one year, each year's objectives must correspond with those proposed for the preceding year.

For self-governing groups emphasis might be placed on building and/or strengthening community and governing institutions in such areas as (but not limited to) long-range planning for specific initiatives designed to enhance a particular aspect of the community's social, economic and political development, increasing the tribe's capability for effectively exercising executive, judicial and legislative authorities or developing a system to provide needed services which are not otherwise available to residents of the service area.

For non self-governing groups (tribes or organizations which do not have Federal or State recognition) emphasis might be placed on building and/or strengthening the administrative and management capacity of the applicant organization which will enable that organization to operate as a more viable human service delivery authority at the local level; designing and establishing community systems which will bring about increased community involvement with the end result of accessing specific services and obtaining funding for other projects in cooperation with existing public and private agencies. Plans for coordination and linkage with other public and private agencies should be an integral part of all applications. (Funds to urban Indian centers may not be used for the provision of direct services.)

All proposed projects must demonstrate community involvement in the development of the project goals and ensure continuing community input in the project implementation.

All applications must demonstrate that the proposed projects will respond to clearly identified community needs and are a priority of the applicant tribe/organization. This must be demonstrated, if available, by the summary of data from a recent community profile with base line data. If a survey has not been completed by the applicant, the applicant may demonstrate community needs and

priorities by other means such as, (but not limited to) summaries and/or conclusions of surveys, reports, studies undertaken by outside agencies and/or local governments. It is expected that an applicant which has not undertaken a recent community profile will include that survey in the objectives for the first year of the project period.

The applicant should also list by source, purpose and amount, other Federal and non-Federal resources and show how these resources will be coordinated with the proposed project.

It is the policy of ANA to make training and technical assistance available to each of its grantees. This support is provided over and above the regular grant award. All applications should, therefore, include a plan specifying the training and technical assistance which will be required to support the proposed project objectives. The plan must provide time frames which correspond appropriately to the time frames of the project activities. Information regarding purpose, task, types of assistance needed, and duration should be included.

Applications must include a section on how the grantee intends to monitor the implementation and progress of the proposed project.

All applications must demonstrate that at the conclusion of the project period, the proposed project will be: (1) Self-sufficient or (2) completed and, therefore, no longer in need of financial support or (3) supported by other ANA resources.

If applicants wish clarification or further explanation of the program announcement, they may call Ms. Janice B. Phalen (202–426–3940) at ANA in Washington, D.C. Urban applicants should contact the ANA Program Specialists in the ten Regional Offices of HEW (names and addresses for whom will be contained in the application kit).

Eligible Applicants

The governing body of tribes, public and private non-profit Indian organizations and Indian consortia are eligible to apply if they are not presently receiving ANA funding. Current grantees, individual members of inter-tribal councils or consortia currently funded by ANA, organizations serving communities already being served by an ANA grantee, Native Hawaiian organizations and Alaskan Native villages or organizations are not eligible to apply for grants under this program announcement.

For self-governing groups, governing body means those duly elected or appointed representatives who have the authority to provide services to and enter into contracts, agreements and grants on behalf of their constituency.

For non-self-governing groups, the council or board must have the same authority as above, but in addition have a membership that is at least 51% Indian and which has been openly and publicly elected by the Indian community which it serves.

For the purpose of this program announcement, reservation and rural, non-reservation Indian groups must ensure a minimum service population of 350. Indian tribes or organizations which have a service population of less than 350 might wish to consider joining with other small groups to submit one application.

For the purpose of this program announcement, urban Indian centers must document an in-city Indian population of 1,000 or more. The term "in-city" refers to the central part of an urban area which functions as a political unit, is recognized by the State, has a population of 30,000 or more, and has defined geographic boundaries. This geographic delineation should not be confused with a Standard Metropolitan Statistical Area (SMSA) which is generally larger. For ANA's purposes all persons specified in a population count must actually reside within the city limits.

Applicants from the following cities need not submit documentation since ANA has already verified in-city Indian population counts of 1,000 or more:

Providence, Rhode Island
Flint, Michigan
Houston, Texas
Lawrence, Kansas
Grand Forks, North Dakota
Ventura, California
Akron, Ohio
Garden Grove, California
Superior, Wisconsin
Reno, Nevada
Ft. Worth, Texas

For all other cities, population documentation should be submitted in conjunction with the application.

Further information regarding population documentation will be included in the application kit.

Available Funds

ANA expects to award $170,000 in FY 1979 and/or in the first quarter of FY 1980 for new projects under this program. It is anticipated that at least three (3) grant awards will be made with a range of $40,000 to $70,000 per award. The budget period for each grant award will be twelve (12) months. The project period for each grant may be up to three (3) years. Refunding on a non-competitive basis beyond the first year will depend upon the grantee's satisfactory performance of the project, upon the availability of funds, and upon the grantee's compliance with the Native American Programs Rules and Regulations. ANA anticipates announcing the grant awards, depending on the availability of funds, by September 30, 1979 and/or by December 31, 1979.

Grantee Share of Project

It is expected that grantees will provide 20% of the approved cost of the project. Grantee contributions may be in cash or in kind, fairly evaluated, including, but not limited to, plant, equipment, and services. The contribution must be project related and must be allowable under the Department's applicable regulations in 45 CFR Part 74, Subparts Q and G.

Under certain circumstances, some or all of the non-Federal share of the project may be waived by ANA. Further explantion is contained in Section 1336.52 of ANA's Regulations which will be provided in the application kit.

The Application Process

Availability of application forms. In order to be considered for a grant under the Social Development Program, an application must be submitted on the forms supplied and the manner prescribed by ANA. An application kit containing the necessary forms as well as supplemental descriptive project information may be obtained from:

Administration for Native Americans, Room 357–G, Hubert H. Humphrey Building, 200 Independence Ave., S.W., Washington, D.C. 20201, Attention: 13612–793, (202) 426–3940, Attention: Ms. Janice Phalen.

Application submission. One signed original and six copies of the grant application, including all attachments, must be submitted to the address specified in the application kit.

The application shall be executed by an individual authorized to act for the applicant agency and to assume for the agency the obligations imposed by the terms and conditions of the grant award, including Native American Programs Rules and Regulations.

A–95 notification process. In compliance with the Department of Health, Education, and Welfare's implementation of the Office of Management and Budget Circular No. A–95 Revised (interim procedures at 41 FR 3160, July 29, 1976), applicants, with the exception of Federally recognized tribes, who request grant support must, prior to submission of an application, notify both the State and Areawide

Clearinghouses of the intent to apply for Federal assistance. Some State and Area Clearinghouses provide their own forms for the notification and others use the facesheet (Form 424) of the application form. Applicants should contact the appropriate Clearinghouses (listed at 42 FR 2210, January 10, 1977) for information on how they can meet the A–95 requirements.

Application consideration. The Commissioner (or Regional Administrator (RA) in the case of urban grant awards) determines the final action to be taken with respect to each grant application for this program. Applications which do not conform to this announcement or are not complete will not be accepted for review and applicants will be notified in writing accordingly. Applications which are complete and conform to the requirements of this program announcement are subjected to a competitive review and evaluation by qualified persons independent of the Administration for Native Americans. The results of the review assist the Commissioner and the RA, as appropriate, in the consideration of competing applications. The Commissioner's and RA's consideration also takes into account the comments of the A–95 Clearinghouse, the ANA staff, and other interested parties.

After the Commissioner or the RA has reached a decision either to disapprove or to fund a competing grant application, unsuccessful applicants are notified of the decision in writing. Successful applicants are notified through the issuance of a Notice of Grant Awarded.

The Commissioner and RA make grant awards consistent with the purpose of the Act, the regulations, and the program announcement within the limits of funds available. The official grant award document is the Notice of Grant Awarded (NGA). The NGA sets forth in writing to the grantee the amount of funds granted, the purpose of the grant, the terms and conditions of the grant award, the effective date of the award, the budget period for which support is given and the amount of grantee participation. The NGA also specifies the total project period for which support is contemplated.

Special Consideration for Funding

The Commissioner for the Administration for Native Americans reserves the right to ensure, where possible, that the number of grant awards will be equally distributed among reservation, rural non-reservation, and urban center applicants.

Criteria for Review and Evaluation of Applications

Competing grant applications will be reviewed and evaluated against the following criteria:

1. Project Design (0–20 points)

The quality of the project design as indicated by such factors as:

(a) A detailed budget with justification indicating reasonableness of estimated cost in relation to anticipated results; (5 points)

(b) A specific training and technical assistance plan which corresponds to project goals and objectives; (10 points)

(c) The applicant has coordinated utilization of its other resources with the proposed project objectives. (5 points)

2. Objectives (0–55 points)

The presentation of the project design as indicated by such factors as:

(a) The degree to which the proposed project activities adequately address at least one of the program objectives detailed under "Program Goal and Objectives" of this announcement; (10 points)

(b) The proposed activities, if well executed, will achieve the project objectives; (15 points)

(c) There are specific, quantifiable (measurable) objectives and activities for the first year, and a clear outline of the objectives for the following two years, if applicable, including a time frame for the specific project objectives of the entire project period; (10 points)

(d) There is demonstrated in the application that the proposed project will be completed, self-sustaining, or supported by other resources by the end of the project period; (10 points)

(e) The objectives respond to community needs and priorities, which are (1) identified in the description of the tribe/organization and of the community it serves and which are (2) evidenced by the results of a recent community profile, if available; or, if not, the applicant has included as one of the first year's objectives the completion of a community profile. (10 points)

3. Organizational Capability (0–10 points)

The soundness of the organizational capability as evidenced by such factors as:

(a) The proposed staff are or will be well qualifed to carry out the project objectives and activities; (4 points)

(b) The applicant has the necessary facilities to carry out the tasks of the proposed project effectively; (2 points)

(c) The proposed monitoring plan will adequately track the implementation and progress of the proposed project. (4 points)

4. Other (0–15 points)/(0–25 points for non-self-governing applicants)

(a) There are letters and other material indicating Indian and non-Indian community involvement and support for the proposed project; (15 points)

(b) *For non-self-governing applicants only:* the applicant provides a clear plan for linkages with local direct service programs; (10 points)

Closing Date for Receipt of Applicants

The closing date for receipt of applications under this program announcement is July 30, 1979. Hand delivered applications are accepted during normal working hours of 9 a.m. to 5 p.m. weekdays.

An application will be considered to have arrived by the closing date if: (a) The application is at the HDS Receiving Office on or before the closing date, or (b) the application is postmarked on or before the closing date as evidenced by the U.S. Postal Service postmark on the wrapper or envelope or by an original receipt from the U.S. Post Service.

Late applications are not accepted, and applicants are notified accordingly.

(Catalog of Federal Domestic Assistance Program No. 13.612, Native American Programs)

Dated: May 11, 1979.

David Lester,

Commissioner, Administration for Native Americans.

Dated: May 31, 1979.

Arabella Martinez,

Assistant Secretary for Human Development Services.

[FR Doc. 79-17352 Filed 6-4-79; 8:45 am]

BILLING CODE 4110-92-M

[Program Announcement No. 13629-793]

Rehabilitation Short-Term Training Projects of Regional Scope

AGENCY: Office of Human Development Services, DHEW.

SUBJECT: Announcement of Availability of FY 1979 Grant Funds for Rehabilitation Short-Term Training of Regional Scope.

SUMMARY: The Rehabilitation Services Administration, Office of Human Development Services, announces that applications will be accepted from State vocational rehabilitation agencies and other public or non-profit agencies and organizations, including institutions of higer education, wishing to compete for grants in Fiscal Year 1979 under the Rehabilitation Short-Term Training Grant Program of Regional Scope.

authorized by Section 304 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 762). Regulations governing rehabilitation short-term training were published in the **Federal Register** in Subpart A and Subpart E, Part 1362 of Chapter XIII of Title 45 of the Code of Federal Regulations (45 CFR Part 1362) on November 25, 1975.

DATES: The closing date for receipt of applications is: July 13, 1979.

Scope of This Announcement

This program announcement identifies the general program objectives and funding priorities of the Rehabilitation Short-Term Training Program of Regional Scope for Fiscal Year 1979.

Program Purpose

The purpose of short-term training grants in vocatioal rehabilitation is to improve the professional practice skills of vocational rehabilitation workers serving physically and mentally disabled individuals, especially those who are the most severely disabled.

Program Goals and Objectives

1. Rehabilitation short-term training of regional scope includes workshops, institutes, seminars, or other short-term training courses designed for the direct training of employees of State vocational rehabilitation agencies or employees of cooperating vocational rehabilitation agencies or facilites, or other individuals with a special interest in the vocational rehabilitation of the severely physically and mentally disabled. Trainees participating within a regional short-term training course are limited to those residing within a geographical region designated by the Department of Health, Education, and Welfare.

2. Conferences and meetings in which direct training is not the primary focus, even though included by inference or tangentially related to the purpose of the conference or meeting, may not be supported through short-term training grant funds. Projects designed primarily for the development of training materials may similarly not be supported through short-term training grant funds.

Eligible Applicants

Applicatins may be submitted by State vocational rehabilitation agencies and other public or non-profit organizations, including institutions of higher education.

Available Funds

An estimated $950 thousand is available for rehabilitation short-term training grants of Regional scope in FY 1979. The availability of funds within each Region is indicated below. All projects to be funded are new and Federal funding is limited to projects which will extend no more than 12 months. It is expected that approximately 60 grants will be awarded and the amount of the grants will range from $7,500 to $50,000.

Grantee Share of Project

It is expected that grantees will provide some of the total project costs. Grantee contributions must be project-related and allowable under the Department's applicable cost principles in 45 CFR Part 74, Subpart Q. Institutions of higher learning and other non-profit institutions may consider actual indirect costs in excess of the 8 percent allowed on training grants as part of the grantee contribution to the project.

The Application Process

Availability of Application Forms

Application kits which contain the prescribed application forms and other information for the applicant, including each Regional Office fiscal year 1979 plan for Rehabilitation Short-Term Training of Regional Scope, with a description of each priority training area, may be obtained by writing to:

Region I

RSA Regional Program Director, Department of Health, Education, and Welfare, John F. Kennedy Federal Building, Room 2011, Government Center, Boston, Massachusetts 02203.

Region II

RSA Regional Program Director, Department of Health, Education, and Welfare, 26 Federal Plaza, Room 4106, New York, New York 10007.

Region III

RSA Regional Program Director, Department of Health, Education, and Welfare, 3535 Market Street—P.O. Box 13716, Philadelphia, Pennsylvania 19101.

Region IV

RSA Regional Program Director, Department of Health, Education, and Welfare, 101 Marietta Street, N.W., Suite 903, Atlanta, Georgia 30323.

Region V

RSA Regional Program Director, Department of Health, Education, and Welfare, 300 South Wacker Drive, 31st Floor, Chicago, Illinois 60606.

Region VI

RSA Regional Program Director, Department of Health, Education, and Welfare, 1200 Main Tower Building, Room 2040, Dallas, Texas 75202.

Region VII

RSA Regional Program Director, Department of Health, Education, and Welfare, 601 East 12th Street, Kansas City, Missouri 64106.

Region VIII

RSA Regional Program Director, Department of Health, Education, and Welfare, Federal Office Building, Room 7415, 19th and Stout Streets, Denver, Colorado 80202.

Region IX

RSA Regional Program Director, Department of Health, Education, and Welfare, Federal Office Building, 50 United Nations Plaza, San Francisco, California 94102.

Region X

RSA Regional Program Director, Department of Health, Education, and Welfare, Arcade Building, 1321 Second Avenue (MS 622), Seattle, Washington 98101.

Application Submission

In order to be considered for rehabilitation short-term training grants of Regional scope, all applications must be submitted on standard forms provided for this purpose by the Commissioner, Rehabilitation Services Administration, in accordance with guidelines established by the Commissioner. The application shall be executed by an individual authorized to act for the applicant agency and to assume the obligations imposed by the terms and conditions of the grant award, including the regulations for the Rehabilitation Short-Term Training Program.

One signed original and two copies of the grant application, including all attachments, are required. The original and the two copies of all completed applications should be submitted to the appropriate Regional Office.

OMB Circular A-95 Notification Process

Applicants for rehabilitation short-term training grants are not routinely required to notify the State and Areawide A-95 Clearinghouse of the intent to apply for Federal assistance. States are authorized to extend the project notification and review procedures of OMB Circular A-95 to include training grants. If the applicant's State has extended the coverage of Circular A-95 to this program, however, the Clearinghouse procedures must be observed.

Application Consideration

The Rehabilitation Services Administration Regional Program Director determines the final action to

be taken with respect to each grant application.

All grant applications are subjected to a competitive review and evaluation conducted by qualified non-Federal consultants experienced in the training of rehabilitation personnel. The Regional Program Director takes into account the competitive review by the non-Federal consultants, and the comments of the State vocational rehabilitation agencies, in reaching a decision on each competing application.

After the Regional Program Director has reached a decision either to disapprove or not to fund a competing grant application, the unsuccessful applicant is notified in writing of that decision.

State Vocational Rehabilitation Agency Review

Applicants are advised to consult with their State vocational rehabilitation agency in the initial stages of application development. Applications submitted under the rehabilitation short-term training program are not required to have State vocational rehabilitation agency approval before submission to the Rehabilitation Services Administration. A copy of the application may be submitted by the applicant concurrently to the State vocational rehabilitation agency for information purposes. State vocational rehabilitation agencies are requested to review and comment on applications after formal submission, however.

Grant Awards to Successful Applicants

The Regional Program Director makes grant awards consistent with the purpose of the Rehabilitation Act, the regulations, and program announcements within the limit of Federal funds available. The official grant award document is the Notice of Grant Awarded which sets forth in writing the amount of funds granted, the purpose of the grant, the terms and conditions of the grant award, the effective date of the award, the budget period for which support is given and the total grantee participation. The award also specifies the project period for which support is contemplated.

Special Consideration for Funding

In FY 1979 the following program priorities, not in order of priority, have been identified for short-term training of Regional scope:

Region I ($77,000)

(a) Case recording and documentation;
(b) Techniques of daily living;
(c) Program and financial management;
(d) Consumer involvement and consultation in policy development for the State/Federal vocational rehabilitation program.

Region II ($86,300)

(a) Case recording and documentation;
(b) The use of job development and job analysis in vocational rehabilitation;
(c) Techniques of daily living;
(d) The use of similar benefits in vocational rehabilitation;
(e) The vocational rehabilitation of severely disabled individuals;
(f) Legal rights of handicapped individuals;
(g) Consumer involvement and consultation in policy development for the State/Federal vocational rehabilitation program.
(h) Reducing administrative time in the vocational rehabilitation process.

Region III ($108,600)

(a) Case recording and documentation;
(b) The use of similar benefits in vocational rehabilitation;
(c) Techniques of daily living;
(d) The use of job development and job analysis in vocational rehabilitation;
(e) Reducing administrative time in the vocational rehabilitation process;

Region IV ($132,600)

(a) Job placement for severely handicapped individuals;
(b) Techniques of daily living;
(c) The use of similar benefits in vocational rehabilitation;
(d) The vocational rehabilitation of severely disabled individuals;
(e) Legal rights of handicapped individuals;
(f) Program and financial management;
(g) Reducing administrative time in the vocational rehabilitation process.

Region V ($103,500)

(a) The use of job development and job analysis in vocational rehabilitation;
(b) Techniques of daily living;
(c) The use of similar benefits in vocational rehabilitation;
(d) the vocational rehabilitation of severely disabled individuals;
(e) Program and financial management;
(f) Reducing administrative time in the vocational rehabilitation process.

Region VI ($120,100)

(a) Job placement for severely handicapped individuals;
(b) Techniques of daily living;
(c) Removal of architectural and transportation barriers;
(d) Case recording and documentation;
(e) The use of similar benefits in vocational rehabilitation;
(f) Program and financial management.

Region VII ($78,100)

(a) Case recording and documentation;
(b) The vocational rehabilitation of severely disabled individuals;
(c) Legal rights of handicapped individuals;
(d) Techniques of daily living;
(e) Reducing administrative time in the vocational rehabilitation process;
(f) Job placement for severely handicapped individuals;
(g) Program and financial management;
(h) The use of job development and job analysis in vocational rehabilitation.

Region VIII ($69,500)

(a) Case recording and documentation;
(b) Job placement for severely handicapped individuals;
(c) Techniques of daily living;
(d) The use of similar benefits in vocational rehabilitation;
(e) The vocational rehabilitation of severely disabled individuals;
(f) Program and financial management;
(g) Removal of architectural and transportation barriers.

Region IX ($88,400)

(a) Job placement for severely handicapped individuals;
(b) Techniques of daily living;
(c) The use of similar benefits in vocational rehabilitation;
(d) Program and financial management;
(e) Reducing administrative time in the vocational rehabilitation process.

Region X ($70,300)

(a) Case recording and documentation;
(b) The use of job development and job analysis in vocational rehabilitation;
(c) The use of similar benefits in vocational rehabilitation;
(d) Reducing administrative time in the vocational rehabilitation process;
(e) Consumer involvement and consultation in policy development for the State/Federl vocational rehabilitation program;
(f) The vocational rehabilitation of severely disabled individuals.

Applications in areas other than those listed above will also be reviewed and evaluated but will be considered only to the extent that funds are available after applications submitted under priority training areas have been considered.

An application which is submitted primiarily for the support of a conference or a meeting, or proposed to provide training which is not Regional in scope will be considered to be nonconforming and in such case will be returned to the applicant.

Criteria for Review and Evaluation of Grant Applications

Applications are evaluated against the following criteria:

1. The relevance of the content of the proposed short-term training to the administratively established objectives of the State/Federal vocational rehabilitation program, the objectives of the Rehabilitation Act of 1973, as amended, the objectives of the rehabilitation short-term training program of Regional scope, and the FY 1979 priorities for rehabilitation short-tem training;

2. The qualifications of the instructional staff and the facilities and resources of the applicant organization;

3. The resonableness of the budget in relation to the proposed project and the anticipated results;

4. The methodology to be employed in impementing the project and its feasibility for the achievement of the established educational objectives;

5. The financial and other resources of the applicant for accomplishing the objectives of the training project and how much the applicant plans to contribute to the total cost of the project;

6. The criteria to be used for the selection of individuals to whom traineeships are to be awarded;

7. Evidence that the training institution if free of architectural, communciation, and other barriers to the training of handicapped individuals;

8. Where appropriate, evidence of current accreditation by the designated accrediting agency;

9. The extent to which application instructions are adequately addressed, including both the narrative statement and budget justification;

10. The extent to which the proposal provides for an evaluation methodology, including the manner in which such methodology will be employed to measure the achievement of the objectives of the training program;

11. The evidence of a working relationship with an appropriate State vocational rehabilitation agency and other agencies providing vocational rehabilitation services; and

12. The extent to which the proposal is of Regional scope.

Closing Date for Receipt of Application

Applications are due by close of business on July 13, 1979.

Applications will be judged on time if: (1) The application was sent by mail not later than July 13, 1979 as evidenced by the U.S. Postal Service postmark or the original receipt from the U.S. Postal Service; or (2) the application is hand delivered to the office designated to receive the application in the application instructions. Hand delivered applications will be accepted no later than close of business July 13, 1979 in any case.

Late Applications

Applications received after the closing date are not accepted and applicants are notified accordingly.

(29 U.S.C. 762)

(Catalog of Federal Domestic Assistance Number 13.629, Rehabilitation Training)

Dated: May 24, 1979.

Robert Humphreys,

Commissioner of Rehabilitation Services.

Approved: May 31, 1979.

Arabella Martinez,

Assistant Secretary for Human Development Services.

[FR Doc. 79-17353 Filed 6-4-79; 8:45 am]

BILLING CODE 4110-92-M

Public Health Service

Alcohol, Drug Abuse, and Mental Health Administration; Statement of Organization, Functions and Delegations of Authority

Part H, Chapter HM (Alcohol, Drug Abuse, and Mental Health Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare (39 FR 1654, January 11, 1974, as amended by 43 FR 20562, May 12, 1978) the following changes in the Office of the Administrator, Alcohol, Drug Abuse, and Mental Health Administration is revised to reflect (1) the abolishment of the Office of Program Planning and Evaluation; (2) the abolishment of the Office of Program Coordination; (3) the establishmnent of the Office of Program Planning and Coordination; (4) the establishment of the Office of Extramural Programs; (5) the transfer of the executive secretariat from the immediate Office of the Administrator to the Office of the Director, Office of Administrative Management; and (6) amendments to update the functional statements of the Office of Administrative Management and the Division of Grants and Contracts Mangement, Office of Administrative Management, ADAMHA.

Section HM-B, *Organization and Functions* is amended as follows:

1. Under *Office of the Administrator (HMA),* delete the current statement and insert the following statement:

Office of the Administrator (HMA). (1) Provides leadership in the development of policies and programs concerned with the research, human resources development and training, prevention and treatment of alcoholism, drug abuse, and mental illness; and the promotion of mental health, generally; (2) coordinates ADAMHA policies and programs within the Office of the Administrator and among the three Institutes; (3) carries out such ADAMHA-wide functions as coordination of equal employment opportunity activities, analysis of legislative issues and development of related policy and position papers, and coordination of international activities; (4) in coordination with Office of Communications and Public Affairs in outreach efforts to organizations which may involve the media, acts as liaison with special populations (including minorities and women), citizen and professional organizations, special interest groups and States; and (5) maintains liaison with the Assistant Secretary for Health and Surgeon General on matters related to program activities of regional interest and such other activities as may be required.

2. Under *Office of the Administrator (HMA),* delete the statement for Office of Program Planning and Evaluation (HMA3) and the statements for the Office of Program Coordination (HMA5 through HMA55) in their entirety.

3. Under *Office of the Administrator (HMA),* insert the following statements after the statement for the *Office of the Administrator (HMA).*

Office of Program Planning and Coordination (HMA2). (1) Provides leadership and guidance in the policy analysis and review, program planning and evaluation, and the coordination of programs concerned with the research, human resources development, prevention and treatment of alcoholism, drug abuse, and mental illness, and assures the quality of those efforts; (2) develops policies and procedures to assure coordination between the ADAMHA Institutes in program implementation; (3) provides liaison among the Institutes, regional offices,

States and local governments; (4) maintains liaison with the Office of the Assistant Secretary for Health and Surgeon General and other PHS agencies; (5) coordinates the Administration's program planning, analytical and evaluation activities; and (6) coordinates the development of ADAMHA's forward plan, with the participation of the Office of Administrative Management.

Division of Science (HMA21). (1) Provides expertise and technical advice in the planning, analysis, coordination and evaluation of research and science policy and programs in the ADAMHA; (2) reviews the ADAMHA scientific program and provides advice concerning balance in research and research training programs including laboratory, clinical, survey, and epidemiological research, ranging from biomedical to social science disciplines; (3) reviews ADAMHA scientific endeavors in research and research training programs to identify specific areas of opportunity, including treatment assessment research, and provides appropriate central liaison and coordination; (4) identifies areas where collaboration in research and research training programs may be undertaken among ADAMHA Institutes; (5) identifies similar collaborative research opportunities between ADAMHA and the National Institutes of Health, and other Federal and academic science and research programs, and provides appropriate liaison and coordination; and (6) reviews and provides advice on the adequacy of organizational structure, facilities, and resources required for the effective conduct of ADAMHA's research and research training programs.

Division of Human Resources Development and Training (HMA22). (1) Provides expertise and technical advice in the planning, analysis, coordination and evaluation of clinical services human resources development, and training and education policy and programs in the ADAMHA; (2) coordinates ADAMHA activities to assure the content and quality of training in health disciplines related to the prevention and treatment of alcoholism, drug abuse, and mental illness; (3) analyzes the content and quality of training in the health disciplines in ADAMHA-supported programs in community and training institutions; (4) provides technical expertise and advice to regions, States, local governments, service agencies, and training institutions, both public and private; (5) analyzes data related to nationwide perspectives and trends regarding health human resources planning, training, development, and utilization; and (6) provides central liaison and coordination of the human resources development and training program among the Institutes, other Federal agencies, and the health care community.

Division of Prevention (HMA23). (1) Provides expertise and technical advice in the planning, analysis, coordination and evaluation of prevention policy and programs in the ADAMHA; (2) coordinates ADAMHA activities to assure quality in prevention programs and prevention policy; (3) analyzes the content and quality of prevention programs in the three Institutes; (4) provides leadership in the emphasis on prevention in an effort to reduce the incidence and prevalence of alcoholism, drug abuse and mental illness; (5) stimulates the development and dissemination of appropriate information and educational material through conferences, committees, and collaboration with the Office of Communications and Public Affairs; (6) provides central liaison and coordination of the prevention program among the Institutes, other PHS and Federal agencies, and the health care community.

Division of Treatment (HMA24). (1) Provides expertise and technical advice in the planning, analysis, coordination and evaluation of treatment policy and programs in the ADAMHA; (2) coordinates ADAMHA activities to assure quality of treatment programs in alcoholism, drug abuse and mental illness in the community and in institutions, both public and private; (3) serves as the focal point for the analysis and coordination of ADAMHA activities concerned with the support of the delivery of quality medical care under Federal health, health insurance, and Social Security legislation; (4) develops in collaboration with the Institutes, States, and other Federal agencies, health planning policy and procedures as requred under P.L. 93–641 related to alcohol, drug abuse, and mental health treatment programs; (5) collaborates with Institutes, with Federal, State and local governments, and with professional organizations regarding treatment policy and programs for special populations such as rural and urban health, women and minorities, and the aged; (6) develops policies and procedures for intergovernmental coordination, plans conferences and meetings of intergovernmental groups; (7) provides central liaison and coordination of the treatment program among the Institutes, regional offices, with other Federal agencies, and with the health care community.

4. Under the heading entitled *Office of Administrative Management (HMA7),* delete the current statement and insert the following statement:

(1) Develops policies, guidelines, and procedures concerning overall ADAMHA administrative management; (2) provides executive secretariat services to the ADAMHA; (3) provides administrative management and services including internal coordination to the ADAMHA in such areas as (a) financial management, including budget and accounting, (b) management policy, (c) grants and contracts management policy, including cost advisory services, (d) computer systems, (e) personnel management, and (f) general services; (4) advises the Office of the Administrator and the Institutes on administrative policy and management actions, and the administrative implications of program policy, and program operations; (5) participates in the development of the Adminstration's forward and operational plans; and (6) maintains liaison and coordination with the appropriate staff elements in the Office of the Assistant Secretary for Health.

5. Under the heading entitled *Division of Grants and Contracts Management (HMA56),* delete (3) of the statement and renumber the remaining numbered portions in sequential order.

6. Under the heading entitled *Office of Administrative Management (HMA7),* continue unchanged the statements as previously published for the: *Division of Financial Management (HMA73), Division of Computer Systems (HMA77),* and *Division of Personnel Management (HMA78)* in 40 FR 36164, August 9, 1975; and *Division of Management Policy (HMA74)* and *Division of General Services (HMA75)* in 40 FR 31249, July 27, 1976.

7. Under the heading *Office of the Administrator (HMA),* insert the following statement after the statement for *Division of Personnel Management (HMA78).*

Office of Extramural Programs (HMA8). (1) Provides leadership and advice in the development of extramural program policy and implementation of extramural programs; (2) develops and evaluates implementation of policies relating to the initial review of all discretionary grant applications and research contracts; (3) provides leadership and advice concerning orientation on review policies for review committee members, review staff, and extramural program staff; (4) performs centralized grant application receipt and

referral; (5) provides advice on and coordinates implementation of committee management policies and procedures; (6) develops policy and procedures with respect to implementation of Title VI of the Civil Rights Act of 1964; (7) develops programmatic data coordination policy, and supervises the collection and analysis of programmatic data on all centralized ADAMHA grant, contract and intramural projects; (8) executes public use reports clearance responsibilities for ADAMHA.

8. Under the heading *Office of the Administrator (HMA)* the statement for the *Office of Communications and Public Affairs (HMA9)* is continued as published in 40 FR 36165, August 19, 1975, and is restated as follows:

Office of Communications and Public Affairs (HMA9). (1) Plans, directs and implements a comprehensive public information program, serving as the primary channel for dissemination of ADAMHA news and information to the media, general public, professional and citizen organizations, and public interest groups; (2) maintains liaison with the media to facilitate coverage and interpretation of ADAMHA's programs, including preparation of news releases, articles, and other informational materials; (3) serves as central liaison, clearance, and coordinating point for Institute and ADAMHA-wide communications projects and activities, and information material intended for public dissemination, promotes collaboration among the three Institutes in these activities, and assures that they are in accord with ADAMHA goals; (4) reviews and clears publications, press releases, audiovisuals and other material intended for public dissemination and serves as clearance liaison with the Office of the Assistant Secretary for Health and the Office of the Secretary Office of Public Affairs; (5) advises the Administrator on policy matters related to ADAMHA communications and public affairs activities; (6) coordinates ADAMHA activities under the Freedom of Information Act and insures the availability of information to the public; (7) coordinates with the Office of the Administrator the agency outreach efforts which may involve the media; and (8) collaborates with the Division of Prevention in stimulating the development and dissemination of appropriate informational and educational materials and use of the mass media and other means.

Dated: May 29, 1979.

L. David Taylor,

Acting Assistant Secretary for Management and Budget.

[FR Doc. 79-17325 Filed 6-4-79; 8:45 am]

BILLING CODE 4110-88-M

Planning Conference on Smoking and Health in Minority Communities

June 1, 1979.

There will be a planning conference on smoking and health in minority communities June 6–8, 1979 at the Sheraton Potomac Inn, Rockville, Maryland. The Office on Smoking and Health, DHEW is sponsoring this conference to promote development of plans and strategies from specific minority representation to evaluate the smoking problem in their own communities.

For information: Ron Thomas—443–4627.

John M. Pinney,

Director, Office on Smoking and Health.

[FR Doc. 79-17465 Filed 6-4-79; 8:45 am]

BILLING CODE 4110-85-M

Office of the Secretary

Ethics in Government Financial Disclosure Records

This notice is published to supplement the Office of Personnel Management's Privacy Act notice of December 29, 1978 (43 FR 60983) regarding "OPM/Govt–4–Ethics in Government Financial Disclosure Records", a system of records maintained in accordance with the Ethics in Government Act of 1978 (Pub. L. 95–521).

Peter B. Hamilton, Deputy General Counsel, is the Designated Agency Ethics Officer and systems manager of that portion of the system maintained by the Department of Health, Education, and Welfare.

The custodian of these records is the Freedom of Information Officer, Office of Public Affairs, Room 118F, Hubert H. Humphrey Bldg., 200 Independence Avenue, SW, Washington, D.C. 20201. Requests for access to the records should be directed to that official.

Effective date: These records will be available effective May 15, 1979.

For further information contact: Russell M. Roberts, Freedom of Information Officer, (202) 472–7453

Dated: May 29, 1979.

Peter B. Hamilton,

Deputy General Counsel.

[FR Doc. 79-17323 Filed 6-4-79; 8:45 am]

BILLING CODE 4110-12-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

May 14, 1979.

Recommended Guidelines for State Courts—Indian Child Custody Proceedings

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary, Indian Affairs by 209 DM 8.

There was published in the Federal Register, Vol. 44, No. 79/Monday, April 23, 1979 a notice entitled Recommended Guidelines for State Courts, Indian Child Custody Proceedings. This notice pertained directly to implementation of the Indian Child Welfare Act of 1978, Pub. L. 95–608, 92 Stat. 3069, 25 U.S.C.

Public comment is invited relative to those recommended guidelines.

DATE: Comments must be received on or before July 5, 1979.

ADDRESS: Written comments should be addressed to Raymond V. Butler, Chief, Division of Social Services, Bureau of Indian Affairs, 1951 Constitution Avenue, NW. Washington, D.C. 20245.

FOR FURTHER INFORMATION CONTACT: Raymond V. Butler, Division of Social Services, Bureau of Indian Affairs, telephone (703) 235–2756.

Forrest J. Gerard,

Assistant Secretary, Indian Affairs.

[FR Doc. 79-17341 Filed 6-4-79; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

Alaska Native Claims Selection

Correction

In FR Doc. 79–10547 appearing on page 20800 in the issue of Friday, April 6, 1979, make the following corrections:

(1) In the second column of page 20800, under "Seward Meridian, Alaska (Unsurveyed)" add the following under T. 30 N., R. 79 W.: "Sec. 21 and 22, excluding Yukon River (Kwikluak Pass);".

(2) In column three of page 20801, under T. 31 N., R. 82 W., "Secs. 20 and 23, . . ." should have read "Secs. 20 to 23, . . .".

BILLING CODE 1505-01-M

Geological Survey

Maximum Attainable Rate of Production (MAR); an Interim Notice to Lessees for Implementing Section 606(d)(1) of the Outer Continental Shelf (OCS) Lands Act Amendments of 1978

Correction

In FR Doc. 79-16029, appearing in the issue of Wednesday, May 23, 1979, on page 29988, in the preamble under the heading "Dates", in the fourth line, delete the words "for a period of" and insert in lieu of the word "until".

BILLING CODE 1505-01-M

Heritage Conservation and Recreation Service

National Register of Historic Places; Additions, Deletions, and Corrections

By notice in the **Federal Register** of February 7, 1978, Part II, there was published a list of the properties included in the National Register of Historic Places. Further notice is hereby given that certain amendments or revisions in the nature of additions, deletions, or corrections to the previously published list are adopted as set out below.

It is the responsibility of all Federal agencies to take cognizance of the properties included in the National Register as herein amended and revised in accordance with section 106 of the National Historic Preservation Act of 1966, 80 Stat. 16 U.S.C. 470 et seq. (1970 ed.), and the procedures of the Advisory Council on Historic Preservation, 36 CFR Part 800.

Charles A. Herrington,

Acting Keeper of the National Register.

ALABAMA

Clarke County

Grove Hill, *Alston-Cobb House,* 120 Cobb St. (4-30-79).

Colbert County

Seven Mile Island Archeological District. Reference—see Lauderdale County.

Lauderdale County

Florence vicinity, *Seven Mill Island Archeological District,* SW of Florence (4-16-79) (also in Colbert County).

Montgomery County

Montgomery, *Tyson-Maner House,* 469 S. McDonough St. (5-10-79).

Perry County

Marion, *President's House, Marion Institute,* 110 Brown St. (5-14-79).

ALASKA

Aleutian Islands Division

Port Moller vicinity, *Port Moller Hot Springs Village Site* (4-20-79).

Cordova-McCarthy Division

McCarthy, *McCarthy Power Plant,* at McCarthy Creek (4-26-79).

Fairbanks Division

Fairbanks, *Wickersham House,* Alaskaland (4-27-79).

ARIZONA

Cochise County

Dragoon vicinity, *Dragoon Springs Stage Station Site,* E of Dragoon (5-7-79).

ARKANSAS

Sebastian County

Fort Smith, *Bracht, Karl Edward, House,* 315 N. 13th St. (5-2-79).
Fort Smith, *Rogers, Horace Franklin, House,* 2900 Rogers Ave. (5-2-79).
Fort Smith, *West Garrison Avenue Historic District,* 100-525 Garrison Ave. (4-26-79).

CALIFORNIA

Los Angeles County

Los Angeles, *Britt, Eugene W., House,* 2141 W. Adams Blvd. (5-17-79).
Los Angeles, *Broadway Theater and Commercial District,* 300-849 S. Broadway (5-9-79).

San Francisco County

San Francisco, *Audiffred Building,* 1-21 Mission St. (5-10-79).
San Francisco, *Fort Mason,* bounded by Van Ness Ave., Bay and Laguna Sts. and San Francisco Bay (4-23-79) HABS.

Santa Barbara County

Santa Barbara vicinity, *San Marcos Rancho,* W of Santa Barbara (4-26-79).

Santa Clara County

Cupertino vicinity, *Picchetti Brothers Winery,* SW of Cupertino at 13100 Montebello Rd. (5-10-79) HABS.

Sonoma County

Santa Rosa, *Railroad Square District,* roughly bounded by 3rd, Davis, Wilson, and 6th Sts. and Santa Rosa Creek (4-20-79).

Tuolumne County

Lee Vining vicinity, *Soda Springs Cabin (John Lembert Homestead)* SW of Lee Vining (4-19-79).

Tuolumne County

Yosemite National Park, *Parsons Memorial Lodge,* Tuolumne Meadows (4-30-79).

COLORADO

Denver County

Denver, *Oxford Hotel,* 1612 17th St. (4-19-79).

Jefferson County

Evergreen, *Evergreen Conference District,* CO 74 (5-1-79).

CONNECTICUT

Fairfield County

Bridgeport, *East Bridgeport Historic District,* roughly bounded by RR tracks, Beach, Arctic, and Knowlton Sts. (4-25-79).

Hartford County

Hartford, *Jefferson-Seymour District,* Cedar, Wadsworth, Seymour and Jefferson Sts. (5-4-79).

Middlesex County

Middletown, *Town Farms Inn,* Spring St. and River Rd. (5-4-79).

New London County

Groton, *U.S.S. Nautilus (submarine)* Naval Submarine Base (5-16-79).

Windham County

Willimantic, *Willimantic Footbridge,* Railroad St. (4-19-79).

DELAWARE

New Castle County

Wilmington, *Brown, Dr. John A., House,* 4 7th Ave. (4-24-79).
Wilmington, *Harlan and Hollingsworth Office Building,* West St. (4-26-79).
Wilmington, *Schoonover, Frank E., Studios,* 1616 Rodney St. (4-20-79).
Wilmington, *State of Pennsylvania (steamboat)* Christina River (4-20-79).
Wilmington, *Woodward Houses,* 701-703 West St. (4-20-79).

Sussex County

Millsboro vicinity, *Nanticoke Indian Community,* E of Millsboro (4-26-79).

DISTRICT OF COLUMBIA

Washington

St. Elizabeths Hospital, 2700 Martin Luther King Jr., Ave., SE. (4-26-79).

FLORIDA

Dade County

Miami Beach, *Miami Beach Architectural District,* roughly bounded by Atlantic Ocean, Miami Beach Blvd., Alton Rd. and Collins Canal (5-14-79).

Marion County

Ocala, *Coca-Cola Bottling Plant,* 939 N. Magnolia Ave. (5-4-79).

Walton County

DeFuniak Springs, *Sun Bright (Sidney Johnston Catts House),* 606 Live Oak Ave. (5-7-79).

GEORGIA

Baldwin County

Milledgeville vicinity, *Old State Prison Building,* 3 mi. (4.8 km) W of Milledgeville on GA 22 (5-8-79).

Barrow County

Winder, *Winder Depot,* Broad and Porter Sts. (5-8-79).

Catoosa County

Fort Oglethorpe, *Fort Oglethorpe Historic District*, U.S. 27 (4–20–79) (also in Walker County).

Clarke County

Athens, *Cobb-Treanor House*, 1234 S. Lumpkin St. (5–8–79).
Athens, *Dearing, Albin P., House*, 338 S. Milledge Ave. (5–8–79) HABS.
Athens, *Hamilton, Dr. James S., House (Alpha Delta Pi Sorority House)* 150 S. Milledge Ave. (4–24–79).
Athens, *Thomas-Carithers House*, 530 S. Milledge Ave. (5–8–79).

Columbia County

Winfield vicinity, *Woodville* (5–10–79).

Dooly County

Vienna, *Stovall-George-Woodward House*, 305 Union St. (4–27–79).

Fulton County

Atlanta, *Ansley Park Historic District*, Ansley Park and environs (4–20–79).

Hancock County

Jewell, *Jewell Historic District*, GA 248 and GA 16 (5–14–79) (also in Warren County).

Richmond County

Augusta, *Lamar Building (Southern Finance Building)* 753 Broad St. (4–24–79).

Walker County

Fort Oglethorpe Historic District. Reference—see Catoosa County).

Warren County

Jewell Historic District. Reference—see Hancock County).

IDAHO

Bannock County

Pocatello, *Brady Memorial Chapel*, Mountain View Cemetery (5–1–79).
Pocatello, *Church of the Assumption*, 528 N. 5th Ave. (5–1–79).

Bingham County

Blackfoot, *Blackfoot I.O.O.F. Hall*, 57 Bridge St. (5–15–79).
Blackfoot, *St. Paul's Episcopal Church*, 72 N. Shilling Ave. (5–15–79).

Fremont County

Big Springs, *Sack, Johnny, Cabin*, Island Park (4–19–79).

Oneida County

Malad City, *Co-op Block and J. N. Ireland Bank*, Main and Bannock Sts. (4–18–79).
Malad City, *Jones, Jedd, House*, 242 N. Main St. (5–1–79).

Payette County

Payette, *Payette City Hall and Courthouse*, 3rd Ave. and 8th St. (5–14–79).

ILLINOIS

Fulton County

Liverpool vicinity, *Sleeth Site* (5–17–79).
Maples Mills vicinity, *Tampico Mounds* (5–14–79).

Kane County

Aurora, *Old Second National Bank*, 37 S. River St. (5–8–79).

Knox County

Oneida, *Conger, J. Newton, House*, 334 N. Knox St. (4–20–79).

Madison County

Godfrey, *Godfrey, Benjamin, Memorial Chapel*, Godfrey Rd. (5–10–79) HABS.

McHenry County

Woodstock vicinity, *Stickney, George, House*, NE of Woodstock at 1904 Cherry Valley Rd. (5–14–79).
Woodstock vicinity, *Terwilliger House*, E of Woodstock at Mason Hill and Cherry Valley Rds. (5–14–79).

McLean County

Bloomington, *Miller-Davis Law Buildings*, 101–103 N. Main St. and 102–104 E. Front St. (4–27–79).

Stephenson County

Cedarville, *Addams, John H., Homestead*, 425 N. Mill St. (4–17–79).

Whiteside County

Sterling vicinity, *Sinnissippi Site* (5–14–79).

Will County

Joliet, *Henry, Jacob H., House*, 20 S. Eastern Ave. (5–14–79).

INDIANA

Lake County

Gary, *Gary Land Company Building*, 4th Ave. and Pennsylvania St. (5–8–79).

Marion County

Indianapolis, *Stumpf, George, House*, 3225 S. Meridian St. (5–14–79).

Ripley County

Napoleon, *Conwell, Elias, House*, Wilson St. and U.S. 421 (5–14–79).

Vanderburgh County

Evansville, *Soldiers and Sailors Memorial Coliseum*, 350 Court St. (5–10–79).

Wells County

Bluffton, *Stewart-Studebaker House*, 420 W. Market St. (5–14–79).

Chickasaw County

New Hampton, *Foley, John, House*, 511 N. Locust St. (4–16–79).

Hardin County

Iowa Falls, *Edgewood School of Domestic Arts (Edgewood Community Center)* 719 River St. (4–19–79).

Johnson County

Iowa City, *Old Post Office*, 28 S. Linn St. (4–17–79).

Jones County

Monticello, *Farwell, S. S., House*, 301 N. Chestnut St. (4–27–79).

Polk County

Des Moines, *Polk County Courthouse*, 6th and Mulberry Sts. (4–30–79).

Scott County

Le Claire, *Cody Road Historic District*, irregular pattern along Cody Rd. (5–7–79).

KENTUCKY

Bath County

Sharpsburg vicinity, *Springfield Presbyterian Church*, S of Sharpsburg on Springfield Rd. (4–26–79).

Bracken County

Chatham vicinity, *Bracken County Infirmary*, NE of Chatham on KY 19 (4–16–79).

Christian County

Hopkinsville and environs, *Christian County Multiple Resource Area.* This area includes: *Hopkinsville Commercial District*, irregular pattern along Main St. from 5th to 11th St. and along 9th St. from I. C. RR tracks to Clay St.; *Hopkinsville Residential District*, Main and Virginia Sts. from 13th to 21st St. and 16th St. to Clay St.; *Hopkinsville Warehouse District*, irregular pattern along L&N RR tracks from 1st to 21st St., *Poston, Theodore, House*, 809 Hays St.; *Knight, J. B., House*, 1417 E. 7th St.; *Dalton Brothers Brick Co.*, 2108 S. Main St.; Honey Grove vicinity, *McClellen, S., House*, W of Honey Grove on KY 508; Fairview, *Stuart, Dr. Edward, House*, KY 168; Pembroke vicinity, *Fortson, William H., House*, SE of Pembroke; Hopkinsville vicinity, *Boatright House*, 305 Vernon Ave.; Hopkinsville vicinity, *Western Lunatic Asylum*, U.S. 68; Hopkinsville vicinity, *Torian, Robertson, House*, U.S. 68; Gracey vicinity, *Cox House*, off KY 272; Hopkinsville vicinity, *Campbell, Benjamen, House*, Julian Rd.; Hopkinsville vicinity, *Henry, R. Gano, House, KY 164;* *Hopkinsville vicinity, Church Hill Grange Hall*, KY 695; Hopkinsville vicinity, *Gary, John C., House*, Gary Lane, off KY 695; LaFayette, *LaFayette Methodist Church*, KY 107; LaFayette vicinity, *Elliott Place*, N of LaFayette Rd.; Garrettsburg vicinity, *Davie, Winston Jones, House*, N of Garrettburg on Palmyra Rd.; Beverly, *Beverly School*, off KY 107; Beverly, *Bradshaw, Carter L., House*, off KY 107; Masonville vicinity, *Garnett, Joseph F., House*, E of Masonville on U.S. 41A; Masonville, *Moore, William, House*, U.S. 41A; Fidelio vicinity, *Radford, William, House*, S of Fidelio off U.S. 41A; Oak Grove vicinity, *Bowman, John Hite, House*, S of Oak Grove off I–24; Barker Mill vicinity, *French, Simon, House*, S of Barker Mill on Carter Rd.; Oak Grove vicinity, *Barker, Chiles, House*, E of Oak Grove off KY 115; Masonville, *Clark, John, House*, E of Masonville on SR 1027; Hopkinsville vicinity, *Ritter House*, S of Hopkinsville off U.S. 41A; and Pembroke, *Richardson House*, S. Main St. (4–30–79).

Franklin County

Frankfort, *Frankfort Commercial Historic District*, both sides of Kentucky River at Bridge St. (5–10–79).

Jefferson County

Louisville, *Bush, S. S., House,* 230 Kenwood Hill Rd. (4–30–79).
Louisville, *Finzer, Nicholas, House,* 1212 Hull St. (5–9–79).
Louisville, *Louisville Male High School,* 911 S. Brook St. (4–18–79).
Louisville, *Porter-Todd House,* 929 S. 4th St. (4–30–79).
Louisville, *Whiteside Bakery,* 1400 W. Broadway St. (4–24–79).
Louisville vicinity, *Farnsley-Moremen House (House of Refuge)* W of Louisville at 10908 Lower River Rd. (4–20–79).
Louis vicinity, *Hume-Bischof House,* E of Louisville at 18701 Shelbyville Rd. (4–30–79).

Harrison County

Broadwell, *Kimbrough-Hehr House,* U.S. 62 (4–20–79).

Hart County

Mundfordville vicinity, *Salts Cave Archeological Site,* SW of Mundfordville in Mammoth Cave National Park (5–15–79).

Lincoln County

Stanford vicinity, *Swope-Dudderar House and Mill Site,* E of Stanford on Goshen Rd. (4–16–79).

McCracken County

Paducah, *St. Francis deSales Roman Catholic Church,* 116 S. 6th St. (4–16–79).

Trigg County

Cadiz, *Cadiz Masonic Lodge No. 121 F. and A. M.,* Jefferson and Monroe Sts. (4–17–79).

LOUISIANA

Ascension Parish

Geismar vicinity, *Ashland,* 2 mi. (3.2km) S of Geismar on LA 75 (5–4–79).

Assumption Parish

Plattenville, *Church of the Assumption of the Blessed Virgin Mary,* LA 308 (5–8–79).

Catahoula Parish

Sicily Island vicinity, *Battleground Plantation,* 4 mi. (6.4 km) N of Sicily Island (5–14–79).

Concordia Parish

Vidalia, *Tacony Plantation House,* off U.S. 84 (4–19–79).

East Feliciana Parish

Jackson, *Centenary College,* College St. (4–19–79).

Ouachita Parish

Bosco, *Boscobel Cottage,* Cordell Lane (5–7–79).
Monroe, *Hall, Gov. Luther, House,* 1515 Jackson St. (5–7–79).

LOUISIANA

Rapides Parish

Alexandria vicinity, *Bennett Plantation House and Store,* E of Alexandria on U.S. 71 (5–14–79).

Tensas Parish

Waterproff, *Myrtle Grove Plantation (Old Bass Place)* LA 568 (5–10–79).

West Feliciana Parish

St. Francisville vicinity, *Greenwood Plantation,* N of St. Francisville on U.S. 61 (4–17–79).

MAINE

Androscoggin County

Auburn, *Barker Mill,* 143 Mill St. (5–8–79).
Auburn, *First Universalist Church,* Elm and Pleasant Sts. (5–7–79).

Cumberland County

Portland, *Maine Archeological Site No. 9–16* (5–7–79).
Yarmouth, *Blanchard, Capt. S. C., House,* 46 Main (5–7–79).

Franklin County

Farmington vicinity, *Tufts House,* SE of Farmington on U.S. 2 (5–8–79).

Hancock County

Brooklin, *Goddard Site* (5–7–79).

Kennebec County

Kent's Hill, *Kent's Hill School Historic District,* ME 17 (4–26–79).

Knox County

Cushing vicinity, *King, Thomas, Inscription,* SW of Cushing (5–7–79).

Lincoln County

Newcastle, *Second Congregational Church,* River St. (5–7–79).

Oxford County

Fryeburg, *Chase, Squire, House,* 151 Main St. (5–7–79).

Piscataquis County

Greenville vicinity, *Tramway Historic District,* NE of Greenville (5–7–79).

MARYLAND

Allegany County

Cumberland, *African Methodist Episcopal Church,* Decatur and Frederick Sts. (4–20–79).

Cecil County

Providence vicinity, *Hopewell,* NW of Providence (5–7–79).
Providence vicinity, *Little Elk Farm,* NW of Providence (5–9–79).

Prince Georges County

Landover vicinity, *Beall's Pleasure,* SE of Landover at 7250 Old Landover Rd. (5–4–79).

MASSACHUSETTS

Bristol County

Attleboro, *Blackinton Houses and Park,* N. Main St. (4–20–79).

Essex County

Lawrence, *Essex Company Offices and Yard,* 6 Essex St. (4–26–79).
Lynn, *G.A.R. Hall and Museum,* 58 Andrew St. (5–7–79).
Rowley, *Chaplin-Clarke House,* 109 Haverhill St. (5–10–79).

Franklin County

Shelburne Falls, *Odd Fellow's Hall,* 1–5 State St. (5–10–79).

Hampden County

Springfield, *Sanderson, Julia, Theater (Paramount Theater)* 1676–1708 Main St. (5–10–79).
Springfield, *Winchester Square Historic District,* U.S. 20 (5–10–79).
Wilbraham, *Academy Historic District,* Mountain Rd., Main and Faculty Sts. (4–20–79).

Hampshire County

Amherst, *Conkey-Stevens House,* 664 Main St. (5–10–79).

Middlesex County

Cambridge, *Abbot, Edwin, House (Longy School of Music)* 1 Follen St. (5–10–79).
Waltham, *Boston Manufacturing Company,* 144 Moody St. (4–18–79).

Norfolk County

Norfolk vicinity, *Turner, Stephen, House,* N of Norfolk at 187 Seekonk St. (5–10–79).

MICHIGAN

Genesee County

Flint, *Applewood (Charles Stewart Mott House)* 1400 E. Kearsley St. (4–16–79).

Leelanau County

Glen Haven vicinity, *Sleeping Bear Point Life Saving Station,* N of Glen Haven (4–26–79).

Oakland County

Rochester vicinity, *Meadow Brook Farms,* 480 S. Adams Rd. (4–17–79).

MINNESOTA

Douglas County

Alexandria, *U.S. Post Office Building,* 625 Broadway St. (4–16–79).

Hubbard County

Nevis vicinity, *Moser, Louis J., Homestead,* NW of Lewis on Mantrap Lake (4–17–79).

Adams County

Natchez, *Prentiss Club,* Peral and Jefferson Sts. (4–17–79).
Natchez, *Texada Tavern,* 222 S. Wall St. (4–17–79).
Natchez, *Tillman House,* 506 High St. (4–17–79).

Coahoma County

Clarksdale vicinity, *Carson Mounds,* N of Clarksdale (4–19–79).

Harrison County

Pass Christian, *Scenic Drive Historic District,* Scenic Dr. (5–7–79).

Perry County

New Augusta vicinity, *Old Augusta Historic Site,* NE of New Augusta (4–24–79).

Warren County

Vicksburg, *Main Street Historic District*, 1st, East, Adams, Main and Openwoods Sts. (4–16–79).

Yazoo County

Yazoo City, *Yazoo City Town Center Historic District*, irregular pattern along Main, Madison and Broadway Sts. (4–16–79).

MISSOURI

Boone County

Centralia, *Chatol (F. Gano Chance House)* 543 S. Jefferson St. (4–20–79).
Columbia, *Maplewood*, Nifong Blvd. and Ponderosa Dr. (4–13–79).

Jackson County

Independence, *Trinity Episcopal Church*, 409 N. Liberty St. (4–27–79).

Lewis County

Lewistown, *Quincy, Missouri, and Pacific Railroad Station*, off MO 16 (5–7–79).

Nodaway County

Maryville, *Gaunt, Thomas, House*, 703 College Ave. (4–19–79).

St. Louis County

Bridgeton, *Payne-Gentry House*, 4211 Fee Fee Rd. (4–17–79).

MONTANA

Powell County

Deer Lodge, *Kohrs, William K., Free Memorial Library*, 5th St. and Missouri Ave. (5–7–79).

Ravalli County

Hamilton, *Ravalli County Courthouse*, 225 Bedford St. (4–20–79).

Yellowstone County

Billings vicinity, *Boothill Cemetery*, N of Billings. (4–17–79).

NEBRASKA

Adams County

Hastings, *Farrell Block*, 533–537 2nd St. and 112 Denver Ave. (5–1–79).
Hastings, *Nebraska Loan and Trust Company Building*, 2nd and Lincoln Ave. (5–1–79).
Hastings, *Nowlan-Dietrich House*, 1105 N. Kansas Ave. (4–17–79).
Hastings, *Stein Brothers Building*, 630 W. 2nd St. (5–1–79).

Custer County

Broken Bow, *Custer County Courthouse and Jail*, Main St. (4–19–79).

Dixon County

Ponca, *Ponca Historic District*, roughly bounded by East, Court, 2nd and 3rd Sts. (5–18–79).

Sheridan County

Antioch, *Antioch Potash Plants*, NE 2 (5–16–79).

Thurston County

Macy vicinity, *Blackbird Hill*, SE of Macy (5–2–79).

Wayne County

Wayne, *Wayne County Courthouse*, 510 Pearl St. (5–2–79).

NEVADA

Carson City (independent city)

Ormsby-Rosser House, 304 S. Minnesota St. (5–17–79).

Clark County

Las Vegas vicinity, *Tule Springs Archeological Site* (4–20–79).

Nye County

Austin vicinity, *Gatecliff Rockshelter*, SE of Austin (4–27–79).

NEW HAMPSHIRE

Coos County

Berlin, *Holy Resurrection Orthodox Church*, Petrograd St. (5–16–79).

Rockingham County

Raymond, *Raymond Boston and Maine Railroad Depot*, Main St. (5–16–79) HAER.

NEW JERSEY

Bergen County

Old Tappan, *Haring, Teunis, House*, 70 Old Tappan Rd. (4–20–79).
Saddle River, *Achenbach House*, 184 Chestnut Ridge Rd. (4–18–79).

Mercer County

Trenton, *Philadelphia and Reading Railroad Freight Station*, 260 N. Willow St. (5–14–79).

Passaic County

Passaic, *St. Nicholas Roman Catholic Church*, Washington, State and Ann Sts. (5–14–79).

Union County

Plainfield, *Waring, Orville Taylor, House (Runyon Funeral Home)* 900 Park Ave. (5–14–79).
Union, *Townley, James, House*, Morris Ave. and Green Lane (5–14–79).

NEW MEXICO

Colfax County

Eagle Nest vicinity, *Eagle Nest Dam, 3 mi.* SE of Eagle Nest off U.S. 64 (4–18–79).

McKinley County

Prewitt vicinity, *Andrews Archeological District*, NE of Prewitt (5–17–79).

Otero County

Cloudcroft vicinity, *Mexican Canyon Trestle*, NW of Cloudcroft off NM 83 (5–7–79).

Rio Arriba County

Dulce vicinity, *Vicenti Site* (5–14–79).

San Juan County

La Plata vicinity, *Morris' No. 41 Archeological District* (5–17–79).

Santa Fe County

Lamy vicinity, *Apache Canyon Railroad Bridge*, 3 mi. (4.8 km) NE of Lamy over Galisteo Creek (4–27–79).

Socorro County

Magdalena vicinity, *Clemens Ranchhouse*, S of Magdalena (4–18–79).

Valencia County

San Mateo vicinity, *San Mateo Archeological Site*, NW of San Mateo (5–17–79).

NEW YORK

Greeley, Horace, Thematic Resources.
Reference—see individual listings for Chappaqua, *Chappaqua Railroad Depot and Depot Plaza*, Chappaqua, *Church of St. Mary the Virgin*, Chappaqua, *Greeley House*, and Chappaqua, *Rehoboth*.

Columbia County

Germantown vicinity, *Clermont Estates Historic District*, S of Germantown (5–7–79).

Erie County

Hamburg vicinity, *Kleis Site* (4–20–79).

Monroe County

Rochester, *East Avenue Historic District*, irregular pattern along East Ave. from Probert St. to Alexander St. (4–17–79).

Nassau County

Cove Neck, *Roosevelt, James Alfred, Estate*, 360 Cove Neck Rd. (5–17–79).
Glen Cove, *Woolworth Estate*, 77 Crescent Beach Rd. (5–17–79).
Muttontown vicinity, *Moore, Benjamin, Estate*, N of Muttontown on NY 25A (5–14–79).
Oyster Bay, *Adam-Derby House*, 166 Lexington Ave. (5–17–79).

Onondaga County

Skaneateles vicinity, *Community Place*, S of Skaneateles at 725 Sheldon Rd. (4–20–79).
Syracuse, *Hawley-Green Street Historic District*, Green St. and Hawley Ave. (5–2–79).
Syracuse, *King, Polaski, House*, 2270 Valley Dr. (4–20–79).

Schenectady County

Niskayuna, *Niskayuna Reformed Church*, 3041 Troy-Schenectady Rd. (4–18–79).

Suffolk County

Lloyd Harbor, *Field, Marshall III, Estate*, Lloyd Harbor Rd. (4–30–79).

Ulster County

Woodstock vicinity, *Byrdcliffe Historic District*, W of Woodstock at Glasco Tpke. and Larks Nest Rd. (5–7–79).

Washington County

White Creek, *White Creek Historic District*, SR 68, Byars and Niles Rds. (4–26–79).

Westchester County

Chappaqua, *Chappaqua Railroad Depot and Depot Plaza*, off NY 120 (4–19–79).
Chappaqua, *Church of St. Mary the Virgin*, 191 S. Greeley Ave. (4–19–79).
Chappaqua, *Greeley House*, 100 King St. (4–19–79).
Chappaqua, *Rehoboth*, 33 Aldridge Rd. (4–19–79).

NORTH CAROLINA

NORTH CAROLINA COURTHOUSES THEMATIC RESOURCES. Reference—see individual listings under Alamance, Alleghany, Ashe, Avery, Bertie, Brunswick, Buncombe, Caldwell, Catawba, Chatham, Cherokee, Cleveland, Columbus, Cumberland, Currituck, Davie, Gaston, Granville, Greene, Guilford, Halifax, Haywood, Henderson, Hoke, Hyde, Jackson, Johnston, Lee, Lenoir, Lincoln, Madison, Martin, McDowell, Mecklenburg, Mitchell, Montgomery, Moore, Nash, Pender, Perquimans, Person, Pitt, Randolph, Richmond, Rockingham, Rutherford, Stokes, Surry, Swain, Transylvania, Iredell, Tyrrell, Vance, Washington, Wilkes, Wilson, and Yancey counties.

Alamance County

Graham, *Alamance County Courthouse,* (North Carolina County Courthouses Thematic Resources), Elm and Main Sts. (5–10–79).

Alleghany County

Sparta, *Alleghany County Courthouse* (North Carolina County Courthouses Thematic Resources), Main and Whitehead Sts. (5–10–79).

Ashe County

Jefferson, *Ashe County Courthouse* (North Carolina County Courthouses Thematic Resources), Main St. (5–10–79).

Avery County

Newland, *Avery County Courthouse* (North Carolina County Courthouses Thematic Resources), Montezuma St. and Courthouse Dr. (5–10–79).

Bertie County

Windsor, *Bertie County Courthouse* (North Carolina County Courthouses Thematic Resources), King and Dundee Sts. (5–10–79).

Brunswick County

Southport, *Brunswick County Courthouse* (North Carolina County Courthouses Thematic Resources), Davis and Moore Sts. (5–10–79).

Buncombe County

Asheville, *Asheville Historic and Architectural Multiple Resource Area.* This area includes: *Asheville Historic District,* roughly bounded by Woodfin, Haywood, Broad, Buncombe, Hilliard, Marjorie, and Valley Sts. and Ravenscroft Dr.; *Asheville Transfer and Storage Company Building,* 192–194 Coxe Ave.; *B and B Motor Company Building,* 84–94 Coxe Ave.; *Conabeer Chrysler Building, Latta, E. D., Nurses' Home,* 159 Woodfin St.; *Mears, George A., House,* 137 Biltmore Ave.; *Richbourg Motors Building,* 50 Coxe Ave.; *Sawyer Motor Company Building,* 100 Coxe Ave.; *Schoenberger Hall,* 60 Ravenscroft Dr.; 130–132 Biltmore Ave.; 134–136½ Biltmore Ave.; 140 Biltmore Ave. (4–26–79).

Asheville, *Buncombe County Courthouse* (North Carolina County Courthouses Thematic Resources), College and Davidson Sts. (5–10–79).

Asheville, *St. Matthias Episcopal Church,* Valley St. (5–10–79).

Caldwell County

Lenoir, *Caldwell County Courthouse* (North Carolina County Courthouses Thematic Resources), Main St. (5–10–79).

Catawba County

Newton, *Catawba County Courthouse* (North Carolina County Courthouses Thematic Resources), S. Main, W. A, S. College, and W. 1st Sts. (5–10–79).

Chatham County

Pittsboro, *Chatham County Courthouse* (North Carolina County Courthouses Thematic Resources), NC 15–501 and Highway 64 (5–10–79).

Cherokee County

Murphy, *Cherokee County Courthouse* (North Carolina County Courthouses Thematic Resources), Peachtree and Central Sts. (5–10–79).

Cleveland County

Shelby, *Cleveland County Courthouse* (North Carolina County Courthouses Thematic Resources), Main, Washington, Warren, and LaFayette Sts. (5–10–79).

Columbus County

Whiteville, *Columbus County Courthouse* (North Carolina County Courthouses Thematic Resources), bounded by Madison and Jefferson Sts. circle (5–10–79).

Cumberland County

Fayetteville, *Cumberland County Courthouse* (North Carolina County Courthouses Thematic Resources), Franklin, Gillespie, and Russell Sts. (5–10–79).

Currituck County

Currituck, *Currituck County Courthouse* (North Carolina County Courthouses Thematic Resources), SR 1242 (5–10–79).

Davie County

Mocksville, *Davie County Courthouse* (North Carolina County Courthouses Thematic Resources), Courthouse Sq. (5–10–79).

Gaston County

Gastonia, *Gaston County Courthouse* (North Carolina County Courthouses Thematic Resources), N. York and S. South Sts. (5–10–79).

Granville County

Oxford, *Granville County Courthouse* (North Carolina County Courthouses Thematic Resources), Main and Williamsboro Sts. (5–10–79).

Greene County

Snow Hill, *Greene County Courthouse* (North Carolina County Courthouses Thematic Resources), Greene and 2nd Sts. (5–10–79).

Guilford County

Greensboro, *Guilford County Courthouse* (North Carolina County Courthouses Thematic Resources), Market St. (5–10–79).

Jamestown vicinity, *McCulloch's Gold Mill,* S of Jamestown off SR 1153 (4–24–79).

Halifax County

Halifax, *Halifax County Courthouse* (North Carolina County Courthouses Thematic Resources), Main St. (5–10–79).

Haywood County

Waynesville, *Haywood County Courthouse* (North Carolina County Courthouses Thematic Resources), Main and Depot Sts. (5–10–79).

Henderson County

Hendersonville, *Henderson County Courthouse* (North Carolina County Courthouses Thematic Resources), 1st and Main Sts. (5–10–79).

Hoke County

Raeford, *Hoke County Courthouse* (North Carolina County Courthouses Thematic Resources), Main and Edenborough Sts. (5–10–79).

Hyde County

Swansboro, *Hyde County Courthouse* (North Carolina County Courthouses Thematic Resources), bounded by SR 1129, 1132, and 1128 (5–10–79).

Iredell County

Statesville, *Iredell County Courthouse* (North Carolina County Courthouses Thematic Resources), Court Place and S. Center Sts. (5–10–79).

Jackson County

Sylva, *Jackson County Courthouse* (North Carolina County Courthouses Thematic Resources), Main St. (5–10–79).

Johnston County

Smithfield, *Johnston County Courthouse* (North Carolina County Courthouses Thematic Resources), Martin St. and 2nd St. (5–10–79).

Lee County

Sanford, *Lee County Courthouse* (North Carolina County Courthouses Thematic Resources), Horner Blvd., between Courtland and McIntosh Sts. (5–10–79).

Lenoir County

Kinston, *Lenoir County Courthouse* (North Carolina County Courthouses Thematic Resources), Queen and Kings Sts. (5–10–79).

Lincoln County

Lincolnton, *Lincoln County Courthouse* (North Carolina County Courthouses Thematic Resources), Courthouse Sq. (5–10–79).

Madison County

Marshall, *Madison County Courthouse* (North Carolina County Courthouses Thematic Resources), Main St. (5–10–79).

Martin County

Williamston, *Martin County Courthouse* (North Carolina County Courthouses Thematic Resources), Main St. (5–10–79).

Mecklenburg County

Charlotte, *Mecklenburg County Courthouse* (North Carolina County Courthouses Thematic Resources), E. Trade, Alexander, and E. 4th Sts. (5–10–79).

McDowell County

Marion, *McDowell County Courthouse* (North Carolina County Courthouses Thematic Resources), Main and E. Court Sts. (5–10–79).

Mitchell County

Bakersville, *Mitchell County Courthouse* (North Carolina County Courthouses Thematic Resources), Main St. (5–10–79).

Montgomery County

Troy, *Montgomery County Courthouse* (North Carolina County Courthouses Thematic Resources), E. Main St. between S. Main and S. Pearl Sts. (5–10–79).

Moore County

Carthage, *Moore County Courthouse* (North Carolina County Courthouses Thematic Resources), Ray, Dowd, Monroe, and Sanders Sts. circle (5–10–79).

Nash County

Nashville, *Nash County Courthouse* (North Carolina County Courthouses Thematic Resources), Washington St. between Drake and N. Court Sts. (5–10–79).

Pender County

Burgaw, *Pender County Courthouse* (North Carolina County Courthouses Thematic Resources), Wrigth, Wilmington, Walker, and Fremont Sts. (5–10–79).

Person County

Roxboro, *Person County Courthouse* (North Carolina County Courthouses Thematic Resources), Main St. between Aggitt and Court Sts. (5–10–79).

Perquimans County

Hertford, *Perquimans County Courthouse* (North Carolina County Courthouses Thematic Resources), Market St. (5–10–79).

Pitt County

Greenville, *Pitt County Courthouse* (North Carolina County Courthouses Thematic Resources), N. 3rd St. between Washington and S. Evan St. (5–10–79).

Randolph County

Asheboro, *Randolph County Courthouse* (North Carolina County Courthouses Thematic Resources), Worth St. (5–10–79).

Rockingham County

Wentworth, *Rockingham County Courthouse* (North Carolina County Courthouses Thematic Resources), Highway 65 (5–10–79).

Richmond County

Rockingham, *Richmond County Courthouse* (North Carolina County Courthouses Thematic Resources), Franklin St. between Hancock and Lee Sts. (5–10–79).

Rutherford County

Rutherfordton, *Rutherford County Courthouse* (North Carolina County Courthouses Thematic Resources), Main St. between 2nd and 3rd Sts. (5–10–79).

Stokes County

Danbury, *Stokes County Courthouse* (North Carolina County Courthouses Thematic Resources), Main St. between North St. and Courthouse Rd. (5–10–79).

Surry County

Dobson, *Surry County Courthouse* (North Carolina County Courthouses Thematic Resources), N. Main St. between School and Kapp Sts. (5–10–79).

Swain County

Bryson, *Swain County Courthouse* (North Carolina County Courthouses Thematic Resources), Main and Fry Sts. (5–10–79).

Transylvania County

Brevard, *Transylvania County Courthouse* (North Carolina County Courthouses Thematic Resources), N. Broadway and E. Main St. (5–10–79).

Tyrrell County

Columbia, *Tyrrell County Courthouse* (North Carolina County Courthouses Thematic Resources), Main and Broad Sts. (5–10–79).

Washington County

Plymouth, *Washington County Courthouse* (North Carolina County Courthouses Thematic Resources), Main and Adams Sts. (5–10–79).

Wilkes County

Wilkesboro, *Wilkes County Courthouse* (North Carolina County Courthouses Thematic Resources), E. Main St. between Bridge and Broad Sts. (5–10–79).

Wilson County

Wilson, *Wilson County Courthouse* (North Carolina County Courthouses Thematic Resources), Nash at Goldsboro St. (5–10–79).

Vance County

Henderson, *Vance County Courthouse* (North Carolina County Courthouses Thematic Resources), Young St. (5–10–79).

Yancey County

Burnsville, *Yancey County Courthouse* (North Carolina County Courthouses Thematic Resources), W. Main at Town Square (5–10–79).

OHIO

Adams County

Peebles vicinity, *Wickerham Inn*, NE of Peebles on OH 41 (5–7–79).

Allen County

Lima, *Lima Memorial Hall*, W. Elm and S. Elizabeth Sts. (5–7–79).

Auglaize County

St. Marys, *Williams, Dr. Issac Elmer, House and Office*, 407–411 N. Main St. (5–8–79).

Belmont County

Martins Ferry, *Central School*, Hickory and S. 4th Sts. (5–7–79).

St. Clairsville vicinity, *Great Western Schoolhouse*, W of St. Clairsville on U.S. 40 (5–7–79).

Cuyahoga County

Cleveland Heights, *Alcazar Hotel*, Surrey and Derbyshire Rds. (4–17–79).

Lakewood, *Day, Erastus, House*, 16807 Hilliard Rd. (5–8–79).

Darke County

Greenville, *Lansdowne House*, 338 E. 3rd St. (4–20–79).

Delaware County

Delaware vicinity, *Greenwood Farms*, S of Delaware off U.S. 42 (4–17–79).

Erie County

Sandusky, *Beecher, Lucas, House*, 215 W. Washington Row (5–7–79).

Fairfield County

Lancaster, *St. Peter's Evangelical Lutheran Church*, Broad and Mullberry Sts. (4–16–79).

Pickerington vicinity, *Stemen Road Covered Bridge*, NE of Pickerington over Sycamore Creek (4–20–79).

Fayette County

Washington Courthouse, *Kelley, Barney, House*, 321 E. East St. (4–17–79).

Franklin County

Columbus, *Hanna House*, 1021 E. Broad St. (4–19–79).

Columbus, *Holy Cross Church, Rectory and School*, 212 S. 5th St. (4–26–79).

Columbus, *Old Ohio Union*, 154 W. 12th Ave. (4–20–79).

Hamilton County

Cincinnati, *Friedlander, Abraham J., House*, 8 W. 9th St. (5–7–79).

Highland County

Greenfield, *Travellers' Rest Inn*, Jefferson St. and McArthur Way (5–15–79).

Holmes County

Winesburgh vicinity, *Shull-Lugenbuhl Farm*, N of Winesburgh (4–26–79).

Lake County

Painesville vicinity, *South LeRoy Meetinghouse*, NE of Painesville at OH 86 and Brakeman Rd. (5–8–79).

Unionville, *Tappan, Judge Abraham, House*, 7855 S. Ridge Rd. (5–8–79).

Licking County

Newark, *Williams, Elias, House (Bolton House)* 565 Granville St. (4–16–79).

Mahoning County

Youngstown, *Our Lady of Mount Carmel Church*, off OH 289 (5–10–79).

Montgomery County

Dayton, *Traxler Mansion*, 42 Yale Ave. (4–24–79).

Muskingum County

Trinway vicinity, *Prospect Place (Adam-Cox House)* S of Trinway on OH 77 (5–10–79).
Zanesville, *Black-Elliott Block*, 525 Main St. (5–8–79).

Seneca County

Tiffin vicinity, *Umsted Farm*, N of Tiffin on SR 38 (4–27–79).

Shelby County

Sidney, *Fulton Farm (River Bend Farm)* 804 S. Brooklyn Ave. (5–8–79).

Stark County

Canton, *First Methodist Episcopal Church*, 120 Cleveland Ave., SW. (4–16–79).
Canton, *Palace Theater*, 605 Market Ave. North (4–26–79).
Canton, *Saxton House*, 331 S. Market St. (4–26–79).
Massillon, *St. Mary's Catholic Church*, 206 Cherry Rd., NE. (4–16–79).

Summit County

Peninsula vicinity, *Welton, Allen, House*, SW of Peninsula at 2485 Major Rd. (5–7–79).

Warren County

Lebanon vicinity, *Robinson, Edmund, House*, N of Lebanon at 3208 OH 48 (4–16–79).

Wood County

Bowling Green vicinity, *Wood County Home and Infirmary*, N of Bowling Green at 13660 County Home Rd. (4–16–79).

OKLAHOMA

Noble County

Perry, *First National Bank and Trust Company Building*, 300 W. 6th St. (5–16–79).
Perry, *Wollenson-Nacewonder Building*, 611 Delaware St. (5–16–79).

Osage County

Hominy, *Hominy Osage Round House*, Round House Sq. in Indian Village (5–16–79).
Pawhuska, *Blacksmith's House*, 210 W. Main St. (5–7–79).

Pawnee County

Pawnee, *Corliss Steam Engine*, Pawnee County Fairgrounds (5–7–79).

Payne County

Ripley vicinity, *Hopkins Sandstone House and Farmstead*, NE of Ripley (5–7–79).

OREGON

Jackson County

Butte Falls vicinity, *Jacksonville-to-Fort Klamath Military Wagon Road*, S of Butte Falls (5–15–79) (also in Klamath County).
Medford, *U.S. Post Office and Courthouse*, 310 W. 6th St. (4–30–79).

Klamath County

Jacksonville-to-Fort Klamath Military Wagon Road. Reference—see Jackson County.

Linn County

Albany, *United Presbyterian Church and Rectory*, 510 SW. 5th Ave. (4–18–79).

Multnomah County

Portland, *Frank, M. Lloyd, Estate*, 0615 Palatine Hill Rd., SW. (4–18–79).
Portland, *U.S. Courthouse*, 620 SW. Main St. (4–30–79).
Portland, *U.S. Post Office*, 511 NW. Broadway (4–18–79).

PENNSYLVANIA

Adams County

Hunterstown, *Hunterstown Historic District*, PA 394 and Granite Station Rd. (5–15–79).

Allegheny County

Coraopolis, *Coraopolis Railroad Station*, Neville Ave. and Mill St. (4–20–79).

Butler County

Butler, *Lowrie, Sen. Walter, House*, W. Diamond and S. Jackson Sts. (5–1–79).

Centre County

Bellefonte vicinity, *Brockerhoff Mill*, SW of Bellefonte on PA 550 (5–1–79).
Centrall Hall vicinity, *Neff Round Barn*, S of Centre Hall off PA 45 (5–2–79).
Spring Mills vicinity, *Waggoner, Daniel, Log House and Barn*, SW of Spring Mills (4–18–79).
State College, *Camelot*, 520 S. Fraser St. (4–26–79).

Clearfield County

Clearfield, *Clearfield County Courthouse*, 2nd and Market Sts. (4–27–79).
Clearfield, *Old Town Historic District*, irregular pattern along Front St. (5–15–79).

Dauphin County

Hummelstown, *Henderson, Dr. William, House (Fox House)* 31 E. Main st. (5–14–79).

Delaware County

Haverford, *Allgates*, Coopertown Rd. (5–15–79).

Erie County

Erie, *Main Library*, 3 S. Perry St. (4–26–79).

Franklin County

Mercersburg vicinity, *Mansfield*, SE of Mercersburg (4–26–79).
Mercersburg vicinity, *Millmont Farm*, E of Mercersburg at jct. of PA 16 and PA 416 (4–27–79).

Greene County

Waynesburg, *Hanna Hall*, College St. (4–18–79).

Lackawanna County

Scranton, *Dickson Works*, 225 Vine St. (5–14–79).

Lebanon County

Annville, *Annville Historic District*, roughly bounded by Quittapahilla Creek, Lebanon, Saylor and Marshall Sts. (4–30–79).

Mifflin County

Lewistown vicinity, *Old Stone Arch Bridge*, S of Lewistown on Jack's Creek Rd. (4–18–79).

Monroe County

Stroudsburg, *Monroe County Courthouse*, 7th and Monroe Sts. (4–18–79).

Montgomery County

Bryn Mawr, *Bryn Mawr College Historic District*, Morris Ave., Yarrow St. and New Gulph Rd. (5–4–79).
Bryn Mawr, *Bryn Mawr Hotel (Baldwin School)* Morris and Montgomery Aves. (4–27–79).

Philadelphia County

Philadelphia, *Lits Department Store*, Market between 7th and 8th Sts. (5–15–79).
Philadelphia, *Poth, Frederick A., Houses*, 15, 3301–3311 Powelton Ave. (4–19–79).

Schuylkill County

Pottsville, *Yuengling, Frank D., Mansion*, 1440 Mahantongo St. (4–18–79).

Union County

Lewisburg, *Chamberlin Iron Front Building*, 434 Market St. (5–14–79).

York County

York, *Willis House*, 135 Willis Run Rd. (4–20–79).

SOUTH CAROLINA

Calhoun County

St. Matthews vicinity, *Buyck's Bluff Archeological Site*, 8 mi. NE of St. Matthews (5–4–79).

Charleston County

Kiawah Island, *Bass Pond Site*, Shullbred Point (4–24–79).

Fairfield County

Monticello vicinity, *Fonti Flora Plantation*, 5.4 mi. NE of Monticello on SC 99 (4–24–79).

Lancaster County

Lancaster, *Kilburnie*, 204 N. White St. (4–24–79).
Lancaster vicinity, *Mount Carmel A.M.E. Zion Campground*, S of Lancaster (5–10–79).

Newberry County

Newberry, *Oakhurst (Matthews House)* 2723 Main St. (4–24–79).
Pomaria vicinity, *Pomaria*, SE of Pomaria on U.S. 176 (4–24–79).

Richland County

Columbia vicinity, *Brown's Ferry Vessel*, E of Columbia (5–18–79).

Spartanburg County

Enoree, *Mountain Shoals Plantation*, jct. of U.S. 221 and SC 92 (4–24–79).

SOUTH DAKOTA

Lincoln County

Canton vicinity, *Kruger Dam*, NE of Canton (5–1–79).

TENNESSEE

Claiborne County

Tazewell, *Wier, James, House*, Eppes St. (4–18–79).

Davidson County

Nashville, *Richland-West End Historic District*, roughly bounded by RR tracks, Murphy Rd., Park Circle, Wilson and Richland Aves. (4–16–79).

Grundy County

Altamont vicinity, *Northcutts Cove Chapel*, SE of Altamont (4–18–79).

Hamilton County

Chattanooga, *Fort Wood Historic District*, roughly bounded by Palmetto, McCallie, Central and 5th Sts. (4–18–79).

Hardin County

Hurley vicinity, *Indian Mounds*, E of Hurley (4–27–79).

Putnam County

Cookeville, *Arcade, The*, 7–13 S. Jefferson Ave. (4–17–79).

Shelby County

Memphis, *Leath, Porter, Children's Center*, 850 N. Manassas St. (5–8–79).
Memphis, *Memphis Merchants Exchange*, 2nd St. and Madison Ave. (5–8–79).

Smith County

Carthage, *Smith County Courthouse*, Court Sq. (4–17–79).

Williamson County

Franklin, *Winstead House*, S. Margin St. (4–18–79).

TEXAS

Fannin County

Bonham, *Clendenen-Carleton House*, 803 N. Main St. (5–14–79).

Harris County

Houston vicinity, *Harris County Boys' School Site*, NE of Houston (5–2–79).

Mills County

Goldthwaite, *Mills County Jailhouse*, Fisher and 5th Sts. (5–8–79).

Nolan County

Sweetwater, *Ragland, R. A., Building*, 113–117 3rd St. (5–14–79).

Travis County

Austin, *Smith-Clark and Smith-Bickler Houses*, 502 and 504 W. 14th St. (4–20–79).
Austin, *Youth Council Site (41TV382) Barton Springs Rd. and S. Lamar Blvd. (4–24–79).*

UTAH

Cache County

Logan, *Logan Center Street Historic District*, roughly bounded by 200 North, 200 South, 200 East and 600 West (4–26–79).

VERMONT

Rutland County

Castleton, *Castleton Villege Historic District*, irregular pattern along Main and South Sts. (4–26–79).

VIRGINIA

Caroline County

Corbin vicinity, *Santee*, off VA 610 (5–7–79).

Emporia (indenpendent city)

Old Merchants and Farmers Bank Building, S. Main St. (5–7–79).

Essex County

Chance vicinity, *Glencairn*, N of Chance off U.S. 17 (5–14–79).

Loudoun County

Hillsboro, *Hillsboro Historic District*, VA 9 (5–7–79).

Orange County

Orange vicinity, *Willow Grove*, 2 mi. (3.2 km) NW of Orange on U.S. 15 (5–7–79).

Powhatan County

Powhatan vicinity, *Belnemus*, W of Powhatan off U.S. 60 (4–20–79). HABS.

Pulaski County

Pulaski, *Dalton Theatre Building*, Washington Ave. (5–7–79).

Shenandoah County

Fishers Hill vicinity, *Snapp House*, SW of Fishers Hill on VA 757 (5–7–79).

Tazewell County

Burke's Garden vicinity, *Burke's Garden Central Church and Cemetery*, SE of Burke's Garden on VA 623 (5–7–79).

King County

Seattle, *Federal Office Building*, 909 1st Ave. (4–30–79).
Seattle, *Ferry, Pierre P., House*, 1531 10th Ave. East (4–18–79).
Colville, *Keller House*, 700 N. Wynne St. (4–18–79).
Colville, *McCauley, H. M., House*, 285 Oak St. (4–18–79).

Whatcom County

Bellingham, *U.S. Post Office and Courthouse*, 104 W. Magnolia St. (4–30–79).

WEST VIRGINIA

Clay County

Clay, *Old Clay County Courthouse*, Main St. (4–20–79).

Kanawha County

St. Albans, *Beeches, The*, 805 Kanawha Ter. (4–20–79).

Marion County

Montana vicinity, *Prickett, Jacob, Jr., Log House*, S of Montana off SR 72 (4–20–79).

WISCONSIN

Buffalo County

Alma, *Laue, Frederick, House*, 1111 S. Main St. (5–14–79).
Alma, *Tester and Polin General Merchandise Store*, 215 N. Main St. (5–14–79).
Fountain City, *Fugina House*, 348 S. Main St. (5–8–79).

Columbia County

Portage vicinity, *Fort Winnebago Site*, E of Portage on WI 33 (5–17–79).

Door County

Washington Island vicinity, *Pottawatomie Lighthouse*, NW Rock Island (4–20–79).

Douglas County

Superior, *Trade and Commerce Building*, 916 Hammond Ave. (5–8–79).

Green County

Brodhead, *Smith, Francis West, House*, 1002 W. 2nd Ave. (4–17–79).
Monroe, *Bintliff, Gen. James, House*, 723 18th Ave. (5–14–79).
Monroe, *Caradine Building*, 1007 16th Ave. (5–8–79).
Monroe, *Hulburt, C. D., House*, 1205 13th Ave. (5–8–79).

Jefferson County

Jefferson, *Smith, Richard C., House*, 332 E. Linden St. (4–19–79).

Kewaunee County

Kewaunee vicinity, *Pilgrim Family Farmstead*, SW of Kewaunee on Church Rd. (5–8–79).

Milwaukee County

Milwaukee, *Trinity Evangelical Lutheran Church*, 1046 N. 9th St. (5–8–79).

Oconto County

Oconto, *West Main Street Historic District*, Main St. from Duncan to Erie Sts. (5–14–79).

Rock County

Janesville, *Belle Cottage (Kellogg-Damrow House)* 1837 Center Ave. (5–8–79).

Winnebago County

Oshkosh, *Buckstaff Observatory*, 2119 N. Main St. (5–17–79).

* * * * *

The following is a list of corrections to properties listed in the "Federal Register," Part II, February 6, 1979. Additional corrections may appear in subsequent updates.

ALASKA

Skagway-Yakutat Division

Skagway vicinity, *Chilkoot Trail and Dyea Site*, Skagway to Canadian border (4–14–75) NHL (previously listed as Chilkoot Trail).

NEW YORK

STEWART A. T., ERA BUILDINGS THEMATIC RESOURCES. Reference—see individual listings in Garden City. (previously listed as Stewart, A. T., Era Buildings).

Nassau County

Garden City, *Bambery, R. J., House (Stewart, A. T., Era Buildings Thematic Resources)* 105 Hilton Ave. (11–14–78).
Garden City, *Bergwall, C., House (Stewart, A. T., Era Buildings Thematic Resources)* 107 5th St. (11–14–78).

Garden City, *Bishop's House and Carriage House (Stewart, A. T., Era Buildings Thematic Resources)* 36 Cathedral Ave. (11–14–78).
Garden City, *Braren, C. E., House (Stewart, A. T., Era Buildings Thematic Resources)* 109 9th St. (11–14–78).
Garden City, *Breed, Eben, House (Stewart, A. T., Era Buildings Thematic Resources)* 113 Hilton Ave. (11–14–78).
Garden City, *Cathedral Corporation House (Stewart, A. T., Era Buildings Thematic Resources)* 32 Cathedral Ave. (11–14–78).
Garden City, *Cathedral Corporation House (Stewart, A. T., Era Buildings Thematic Resources)* 86 5th St. (11–14–78).
Garden City, *Cathedral Corporation House (Stewart, A. T., Era Buildings Thematic Resources)* 89 5th St. (11–14–78).
Garden City, *Cathedral Corporation House (Stewart, A. T., Era Buildings Thematic Resources)* 82 6th St. (11–14–78).
Garden City, *Cathedral of the Incarnation (Stewart, A. T., Era Buildings Thematic Resources)* 84 6th St. (11–14–78).
Garden City, *Cathedral Corporation House (Stewart, A. T., Era Buildings Thematic Resources)* 86 6th St. (11–14–78).
Garden City, *Cathedral Corporation House (Stewart, A. T., Era Buildings Thematic Resources)* Cathedral Ave. (11–14–78).
Garden City, *Cathedral School of St. Mary (Stewart, A. T., Era Buildings Thematic Resources)* 37 Cathedral Ave. (11–14–78).
Garden City, *Coleman, George E. Jr., House (Stewart, A. T., Era Buildings Thematic Resources)* 24 Rockaway Rd. (11–14–78).
Garden City, *Collins, William, House (Stewart, A. T., Era Buildings Thematic Resources)* 104 9th St. (11–14–78).
Garden City, *Dearmont, Nelson, House (Stewart, A. T., Era Buildings Thematic Resources)* 93 9th St. (11–14–78).
Garden City, *Doyle, Peter C., House (Stewart, A. T., Era Buildings Thematic Resources)* 11 Hilton Ave. (11–14–78).
Garden City, *Dunne, John, House (Stewart, A. T., Era Buildings Thematic Resources)* 109 5th St. (11–14–78).
Garden City, *Farquharson, William, House (Stewart, A. T., Era Buildings Thematic Resources)* 48 Hilton Ave., (11–14–78).
Garden City, *Fitzpatrick, J., House (Stewart, A. T., Era Buildings Thematic Resources)* 40 Hilton Ave. (11–14–78).
Garden City, *Frazer, James, House (Stewart, A. T., Era Buildings Thematic Resources)* 112 Hilton Ave. (11–14–78).
Garden City, *Gardner, Ruth, House (Stewart, A. T., Era Buildings Thematic Resources)* 114 6th St. (11–14–78).
Garden City, *Heston, William M., House (Stewart, A. T., Era Buildings Thematic Resources)* 47 Hilton Ave. (11–14–78).
Garden City, *Hill, David, House (Stewart, A. T., Era Buildings Thematic Resources)* 108 9th St. (11–14–78).
Garden City, *Howe, W. E., House (Stewart, A. T., Era Buildings Thematic Resources)* 43 Hilton Ave. (11–14–78).
Garden City, *Joseph, Franklin, House (Stewart, A. T., Era Buildings Thematic Resources)* 42 Hilton Ave. (11–14–78).
Garden City, *Kern, Joseph F., House (Stewart, A. T., Era Buildings Thematic Resources)* 104 6th St. (11–14–78).
Garden City, *Klein, Michael J., House (Stewart, A. T., Era Buildings Thematic Resources)* 15 Rockaway Rd. (11–14–78).
Garden City, *Lane, John T., House (Stewart, A. T., Era Buildings Thematic Resources)* 94 6th St. (11–14–78).
Garden City, *McCarten, V., House (Stewart, A. T., Era Buildings Thematic Resources)* 106 6th St. (11–14–78).
Garden City, *McGinity, Leo, House (Stewart, A. T., Era Buildings Thematic Resources)* 41 Hilton Ave. (11–14–78).
Garden City, *MacLeod, Donald, House (Stewart, A. T., Era Buildings Thematic Resources)* 44 Hilton Ave. (11–14–78).
Garden City, *Millager, Donald, House (Stewart, A. T., Era Buildings Thematic Resources)* 45 Hilton Ave. (11–14–78).
Garden City, *Munkenbeck, Arthur, House (Stewart, A. T., Era Buildings Thematic Resources)* 49 Hilton Ave. (11–14–78).
Garden City, *Nagle, Kenneth T., House (Stewart, A. T., Era Buildings Thematic Resources)* 95 9th St. (11–14–78).
Garden City, *O'Connor, Michael, House (Stewart, A. T., Era Buildings Thematic Resources)* 115 5th St. (11–14–78).
Garden City, *Partrick, G. F., House (Stewart, A. T., Era Buildings Thematic Resources)* 110 9th St. (11–14–78).
Garden City, *Piestschmann, Richard, House (Stewart, A. T., Era Buildings Thematic Resources)* 112 9th St. (11–14–78).
Garden City, *Poly, Raymond Sr., House (Stewart, A. T., Era Buildings Thematic Resources)* 94 5th St. (11–14–78).
Garden City, *Poole-Willets and Reese Commercial Building (Stewart, A. T., Era Buildings Thematic Resources)* 53–55 Hilton Ave. (11–14–78).
Garden City, *Renander, Arthur, House (Stewart, A. T., Era Buildings Thematic Resources)* 113 9th St. (11–14–78).
Garden City, *St. Paul's School (Stewart, A. T., Era Buildings Thematic Resources)* 295 Stewart Ave. (11–14–78).
Garden City, *Spencer, Robert, House (Stewart, A. T., Era Buildings Thematic Resources)* 111 5th St. (11–14–78).
Garden City, *Tessier, John S., House (Stewart, A. T., Era Buildings Thematic Resources)* 106 9th St. (11–14–78).
Garden City, *Waterworks (Stewart, A. T., Era Buildings Thematic Resources)* 103 11th St. (11–14–78).
Garden City, *Weigl, L. J., House (Stewart, A. T., Era Buildings Thematic Resources)* 105 9th St. (11–14–78).
Garden City, *Witherstine, C. C., House (Stewart, A. T., Era Buildings Thematic Resources)* 110 6th St. (11–14–78).

NEW YORK

Washington County

Washington County Covered Bridges Thematic Resources. Reference—See individual listings in Buskirk, Rexleigh, and Shushan.
Buskirk, *Buskirk Covered Bridge* (Washington County Covered Bridges Thematic Resources) (3–8–78) (previously listed as Covered Bridges of Washington County).
Rexleigh, *Rexleigh, Eagleville Covered Bridge* (Washington County Covered Bridges Thematic Resources) (3–8–78) (previously listed as Covered Bridges of Washington County).
Shushan, *Shushan Covered Bridge* (Washington County Covered Bridges Thematic Resources) (3–8–78) (previously listed as Covered Bridges of Washington County).

SOUTH CAROLINA

Marion County

Marion, *Marion Historic District,* U.S. 501 and U.S. 76 (10–4–73) (boundary increase).

* * * * *

The following properties have been demolished and/or removed from the National Register of Historic Places. This action does not modify the applicability, if any, of provisions of section 2124 of the Tax Reform Act.

NEW YORK

Suffolk County

Mastic, *Floyd, William, House,* 20 Washington Ave. (4–21–71) (removed).

* * * * *

Determinations of eligibility are made in accordance with the provisions of 36 CFR 63, procedures for requestion determinations of eligibility, under the authorities in section 2(b) and 1(3) of Executive Order 11593 and section 106 of the National Historic Preservation Act of 1966, as amended, as implemented by the Advisory Council on Historic Preservation's procedures, 36 CFR Part 800. Properties determined to be eligible under § 63.3 of the procedures for requestion determinations of eligibility are designated by (63.3).

Properties which are determined to be eligible for inclusion in the National Register of Historic Places are entitled to protection pursuant to section 106 of the National Historic Preservation Act of 1966, as amended, and the procedures of the Advisory Council on Historic Preservation, 36 CFR Part 800. Agencies are advised that in accord with the procedures of the Advisory Council on Historic Preservation, before any agency of the Federal Government may undertake any project which may have an effect on an eligible property, the Advisory Council on Historic Preservation, shall be given an opportunity to comment on the proposal.

The following list of additions, deletions, and corrections to the list of properties determined eligible for inclusion in the National Register is intended to supplement the cumulative version of that list published in February of each year.

ARIZONA

Navajo County

Chilchinbito vicinity, *Black Mesa Multiple Resource Area,* W of Chilchinbito (63.3).

Pima County

Tucson, *Rincon Mountain Foothills Archeological District*, Saguaro National Monument.

Yuma County

Archeolgical Site AZS:8:14 (ASU).
Archeological Site AZ T:4:53 (ASU).

ARKANSAS

Craighead County

Monette vicinity, *Archeological Sites 3CG841 and 3CG847*, E of Monette.

Greene County

Archeological Site LC No. 1, along Locust Creek.

Mississippi County

Leachville vicinity, *Archeological Sites 3MS346 and 3MS351*, S of Leachville.

CALIFORNIA

Plumas County

Blairsden, *Archeological Site CA–PLU–250*, off Rt. 70 (63.3).

San Joaquin County

Stockton, *Sperry Office Building*, 148 W. Weber Ave.

Yuba County

Marysville, *Hadley Building*, 230 5th St.
Marysville, *U.S. Post Office*, 407 C St.

CONNECTICUT

New Haven, Waterbury, *Jones-Morgan Building*, 96–108 Bank St.

GEORGIA

Fulton County

Atlanta, *Academy of Medicine*, 825 W. Peachtree St.

HAWAII

Hawaii County

Kapaau, *Old Kohala Courthouse*, Government Rd.

IDAHO

Shoshone County

Historic Log Chute Site 10–SE–338, Idaho Panhandle National Forest

Cook County

Chicago, *Chicago Academy of Sciences*, 2001 N. Clark St. (63.3).
Chicago, *Shedd, John G., Aquarium*, 1200 S. Lakeshore Dr. (63.3).

KENTUCKY

Jefferson County

Jeffersontown vicinity, *Swan House*, S of Jeffersontown at 6609 Billtown Rd. (63.3).

MAINE

Androscoggin County

Lewistown, *Continental Mill Housing*, 66–82 Oxford St. (63.3).

MARYLAND

Baltimore County

Rayville, *Fleagle House*, 124 Middletown Rd.
Rayville vicinity, *Rayville School*, N of Rayville on Middletown Rd.

MASSACHUSETTS

Middlesex County

Natick, *Bacon Free Library and Museum*, 58 Eliot St.

Worcester County

Oxford, *Memorial Hall*, 325 Main St. (63.3).
Worcester, *Worcester Car Barn*, 99–109 Main St.

MICHIGAN

Delta County

Gladstone, *Gladstone Cabin Site (20DE21).*

Lenawee County

Adrian vicinity, *Raisin Valley Friends Church*, jct. M–52 and Valley Rd. (63.3).

MINNESOTA

Ramsey County

St. Paul, *Hamm Building*, 408–418 St. Peter St.
St. Paul, *Rice Park Historic District.*

MISSISSIPPI

Harrison County

Gulfport, *U.S. Post Office and Courthouse*, 25th Ave. and 13th St. (63.3).

NEW YORK

Rensselear, *Troy Downtown Commercial Historic District.*

PENNSYLVANIA

York County

Goldsboro, *Goldsboro Historic District.*
Newberrytown Historic District.
Wrightsville, *Wrightsville Historic District.*

UTAH

San Juan County

Blanding vicinity, *White Mesa Archeological District*, S of Blanding (63.3).

[FR Doc. 79–17163 Filed 6–4–79; 8:45 am]
BILLING CODE 4310–03–M

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before May 25, 1979. Pursuant to section 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, Office of Archeology and Historic Preservation, U.S. Department of the Interior, Washington, DC 20240. Written comments or a request for additional time to prepare comments should be submitted by June 11, 1979.

Charles A. Herrington,
Acting Keeper of the National Register.

ALASKA

Wrangell-Petersburg Division

Petersburg, *Sons of Norway Hall*, Indian St.

ARKANSAS

Lee County

Marianna, *Elks Club*, 67 W. Main St.

COLORADO

Denver County

Denver, *Country Club Historic District*, roughly bounded by 1st and 4th Aves., Race and Downing Sts.

DELAWARE

Kent County

Felton vicinity, *Hughes Early Man Sites.*

New Castle County

Marshallton vicinity, *Greenbank Historic Area*, Greenbank Mill Rd., N of jct. of DE 41 and DE 2 (boundary increase).

FLORIDA

Orange County

Orlando, *Phillips, Dr. P. House*, 135 Lucerne Circle, NE.

Palm Beach County

Jupiter vicinity, *Jupiter Inlet Midden I Site*, E of Jupiter.

IDAHO

Bannock County

McCammon, *McCammon State Bank Building*, Center and 3rd Sts.

Bonneville County

Idaho Falls, *Bonneville County Courthouse*, Capital Ave. and C St.

Kootenai County

Coeur d'Alene, *Coeur d'Alene City Hall*, 5th and Sherman Sts.

Oneida County

Malad, *Malad Second Ward Tabernacle*, 20 S. 100 W. St.

Shoshone County

Wallace, *Wallace Historic District*, roughly bounded by Pine, Bank, 5th and 7th Sts.

KENTUCKY

Fayette County

Lexington, *Clark Hardware Company Building*, 367–369 W. Short St. and 142 N. Broadway.

Fulton County

Fulton, *Carr, Ben F. Jr., House*, 203 2nd St.

Jefferson County

Louisville, *Chestnut Street Methodist Church*, 809 W. Chestnut St.

Louisville, *Doerhoefer-Hampton House*, 2422 W. Chestnut St.
Louisville, *Elks Athletic Club*, 604 S. 3rd St.
Louisville, *First Christian Church*, 850 S. 4th St.
Louisville, *Fourth Avenue Methodist Episcopal Church*, 318 W. St. Catherine St.
Louisville, *Heyburn Building*, 332 W. Broadway.
Louisville, *Jefferson Branch Louisville Free Public Library*, 1718 W. Jefferson St.
Louisville, *Kentucky National Bank*, 300 W. Main St.

Madison County

Richmond vicinity, *Miller, William M., House*, S of Richmond

LOUISIANA

Avoyelles Parish

Bunkie, *Bailey Theatre*, Oak St.

Caddo Parish

Shreveport, *Lewis Home*, 675 Jordan St.

Concordia Parish

Ferriday vicinity, *Lisburn Plantation House*, SE of Ferriday.

Iberia Parish

New Iberia, *Steamboat House*, 623 E. Main St.

Orleans Parish

New Orleans, *Grant-Black House*, 3932 St. Charles Ave.

Pointe Coupee Parish

LaCour, *LaCour, Ovide, Store*, LA 419.

Rapides Parish

Alexandria, *Hirsch, Mayer, House*, 1216 Jackson St.

Sabine Parish

Fisher, *Fisher Historic District*, roughly bounded by 4 L Dr., 3rd Ave., S. 2nd and North Sts.

Tangipahoa Parish

Kentwood, *Tangipahoa Parish Training School Dormitory*, off LA 38.
Tangipahoa, *Camp Noore*, off LA 440.

Washington Parish

Bogalusa, *Bogalusa City Hall*, 214 Arkans Hall Ave.
Bogalusa, *Sullivan House*, 223 S. Border Dr.

West Feliciana Parish

St. Francisville, *St. Francisville Historic District*, Rohal and Prosperity Sts.

MONTANA

Custer County

Miles City, *Miles City Steam Laundry*, 800 Bridge St.

Fergus County

Lewistown, *Masonic Temple*, 322 W. Broadway St.

NEBRASKA

Douglas County

Omaha, *Omaha Quartermaster Depot Historic District*, roughly bounded by RR tracks, Woolworth Ave., 20th and 22nd Sts.

NEW JERSEY

Morris County

Chatham, *Dusenberry House*, 186 Main St.

Somerset County

Rocky Hill vicinity, *Cat Tail Brook Bridge*, NW. of Rocky Hill on Montgomery Rd.

NEW YORK

Putnam County

Brewster, *Old Town Hall*, Main St.

Queens County

New York, *Cornell Farmhouse*, 73–50 Little Neck Pkwy.

OKLAHOMA

Sequoyah County

Short, *Lee's Creek Ceremonial Center Site*, OK 101 (boundary increase).

OREGON

Douglas County

Roseburg, *U.S. Post Office*, 704 SE. Cass Ave.

RHODE ISLAND

Providence County

Providence, *Elmwood Multiple Resource Area*, Elmwood Ave., Cranston and Broad Sts.
Providence, *Shakespeare Hall (Sprague-Knight Building)* 128 Dorrance St.

TENNESSEE

Davidson County

Nashville, *Hopewell Missionary Baptist Church and Parsonage*, 908 and 906 Monroe St.

TEXAS

Harris County

Houston, *Kennedy Bakery*, 813 Congress St.

Harrison County

Marshall, *Arnot House*, 306 W. Houston St.

Hays County

San Marcos vicinity, *Burleson-Knispel House*, 1.5 mi. N of San Marcos on Lime Kiln Rd.

Nacogdoches County

Nacogdoches vicinity, *Barret, Tol, House*, S of Nacogdoches.

Travis County

Austin, *Scholz Garten*, 1607 San Jacinto
Austin, *Westhill*, 1703 West Ave.

UTAH

Cache County

Logan, *Logan L.D.S. Sixth Ward Church*, 395 S. Main St.

Salt Lake County

Draper, *Draper Park School*, 12441 S. 900 East.
Salt Lake City, *Beesley, Ebenezer, House*, 80 W. 200 North.
Salt Lake City, *Woodruff-Riter House*, 225 N. State St.

Weber County

Ogden, *U.S. Post Office and Courthouse*, 298 W. 24th St.

VIRGINIA

Richmond (independent city).
Fourth Baptist Church, 2800 P St.
Virginia Beach (independent city).
U.S. Coast Guard Station, Atlantic Ave. and 24th St.

WISCONSIN

Door County

Egg Harbor, *Cupola House*, 7836 Egg Harbor Rd.

Winnebago County

Neenah, *Smith, Charles R., House*, 824 E. Forest Ave.

[FR Doc. 79-17005 Filed 5-31-79; 8:45 am]
BILLING CODE 4310-03-M

Office of Surface Mining

Adoption of Official Seal

AGENCY: Office of Surface Mining, U.S. Department of the Interior.

ACTION: To provide notice of the Office of Surface Mining Seal.

SUMMARY: The Office of Surface Mining received the approval of the U.S. Department of the Interior to use the following emblem as its official seal. Effective immediately, the seal will be used in the ways prescribed by OSM.

SUPPLEMENTARY INFORMATION: The seal consists of a circular design with a forest green fir tree and foreground, a black bulldozer scoop blade, and a black mountain range. Along the top portion of the circle is the legend "U.S. Department of the Interior," and on the lower portion, "Office of Surface Mining." The shape signifies the full circle from earth removal to restoration to its original configuration. The tree and foreground represent the land's natural beauty and coal's original source. The mountains represent another natural asset; the three peaks are symbols for the social, economic and environmental benefits obtained from reclamation. The bulldozer blade signifies the constructive benefits from man's technology.

Any person who uses the official seal in a manner other than that permitted by OSM shall be subject to penalties as provided in 18 U.S.C. 701. The design

has been prepared under the authority of 30 U.S.C. 1211.

Design:



FOR FURTHER INFORMATION CONTACT:
For further information regarding the use of the seal, call or write U.S. Department of the Interior, Office of Public Affairs, Office of Surface Mining, 1951 Constitution Avenue, N.W., Washington, D.C. 20245 (202) 343–4953.

Walter N. Heine,

Director.

[FR Doc. 79-17292 Filed 6-4-79; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF LABOR

Employment and Training Administration

United States Employment Service; Temporary Alien Labor Certification Program: 1979 Adverse Effect Wage Rates

AGENCY: U.S. Employment Service, Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The Administrator, U.S. Employment Service, announces, pursuant to 20 CFR 655.207(b), the 1979 adverse effect wage rates, that is, the minimum wage rates which the Department of Labor has determined must be offered and paid by employers of temporary alien agricultural workers. Adverse effect wage rates are established and set to prevent the employment of these aliens from having an adverse effect on the wages of U.S. workers who are similarly employed.

EFFECTIVE DATE: June 5, 1979.

FOR FURTHER INFORMATION CONTACT:
Mr. Aaron Bodin, Chief, Division of Labor Certification, Office of Technical Services, U.S. Employment Service, Employment and Training Administration, U.S. Department of Labor, Suite 8410, 601 D Street NW., Washington, D.C. 20213, Telephone: 202–376–6295.

SUPPLEMENTARY INFORMATION:

Requirement of Notice

1. The Department of Labor's regulations for the certification of nonimmigrant aliens for temporary employment in the United States in agriculture and logging require the Administrator, U.S. Employment Service, to cause to be published annually a notice in the **Federal Register** announcing adverse effect wage rates for agricultural workers in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont, New York, Maryland, Virginia, and West Virginia, and for sugar cane workers in Florida. 20 CFR 655.207(b). A proposal was published in the **Federal Register** on May 30, 1978, to add Texas to this list. 43 FR 22996; see 43 FR 29033 (June 16, 1978). The 1978 adverse effect wage rates were published in the **Federal Register** at 43 FR 16432–16433 (April 18, 1978).

Methodology

2. Based upon 1977–1978 wage data supplied to the Department of Labor by the U.S. Department of Agriculture, and upon the methodology published in the **Federal Register** at 41 FR 25018 (June 22, 1976), at 42 FR 40192 (August 9, 1977), and at 43 FR 10310 (March 10, 1978), the Department of Labor has calculated the 1979 adverse effect wage rates. The methodology is the same as that used for determining past years' adverse effect wage rates. The Department of Labor has determined that the methodology can be used to construct adverse effect wage rates in a way that is reasonable, cost effective, and geared as much as possible to the reality of agricultural crops, areas, and existing wage factors.

Applicability of Federally Established Minimum Wage

3. According to the previously established methodology, the 1979 adverse effect wage rates for the States of Massachusetts and Rhode Island would have been computed as $2.86 per hour and $2.89 per hour, respectively. However, the federally established minimum wage for agricultural employment covered by the Fair Labor Standards Act is $2.90 per hour for calendar year 1979, and $3.10 per hour for calendar year 1980. 29 U.S.C. 206 (a)(1) and (a)(5). Pursuant to paragraph (e) of 20 CFR 655.207, promulgated elsewhere in this issue of the **Federal Register** and effective this date, the adverse effect wage rate for any State may be no lower than the wage rate for that year in 29 U.S.C. 206(a)(1). In any case, employers of temporary alien agricultural workers must submit to the Department of Labor signed assurances that they will comply with applicable Federal, State, and local employment-related laws, including the applicable minimum wage laws. 20 CFR 655.202(b).

Voluntary Anti-inflation Wage Guidelines

4. In general, the President's voluntary anti-inflation wage guidelines state that for each employee unit, the annual increase in average pay rates should be 7 percent or less. 6 CFR Part 705, *Appendix;* 43 FR 60773, 60774 (December 28, 1978). However, there is a low-wage exemption which requires employees earning $4.00 or less per hour in straight-time hourly wages to be excluded from each employee unit in making pay-rate computations. 43 FR at 60775; see 43 FR 60781. All the adverse effect wage rates for 1979 are less than $4.00 per hour, and thereby fall under the low-wage exemption, even though they have increased more than 7 percent since 1978. Those employers who have voluntarily chosen to pay their employee units at higher wage rates, that resulted in average straight-time hourly earnings greater than $4.00 per hour, may be covered by the voluntary anti-inflation pay guidelines, and should consult the appropriate standards and regulations of the Council on Wage and Price Stability. See 6 CFR Parts 705 and 706.

1979 Adverse Effect Wage Rates

5. The 1979 adverse effect wage rates, along with the 1978 adverse effect wage rates and the percentage increases in the various rates over the year, are published in the table below. The 1979 rates are effective on June 5, 1979.

Adverse Effect Wage Rates

States	1978 Rates [1]	1979 Rates [2]	Percentage change
Connecticut	$2.81	$2.92	+3.8
Florida (sugar cane only)	3.48	3.79	+8.8
Maine	2.90	3.01	+3.8
Maryland	2.80	3.01	+7.4
Massachusetts	2.76	2.90	+5.1
New Hampshire	3.03	3.15	+3.8
New York	2.82	3.06	+8.5
Rhode Island	2.78	2.90	+4.3
Vermont	2.99	3.10	+3.8
Virginia	2.71	2.96	+9.3

Adverse Effect Wage Rates—Continued

States	1978 Rates [1]	1979 Rates [2]	Percentage change
West Virginia	2.81	3.10	+10.3

[1] 43 FR 16431-16432 (April 18, 1978).
[2] Based upon 1977-78 USDA wage data and the formula published at 20 CFR 655.207(b)(1). Pursuant to 20 CFR 655.207(e), the employer must pay at least $2.90 per hour in calendar year 1979 and $3.10 in calendar 1980, as applicable. 29 U.S.C. 206(a)(1)

Signed at Washington, D.C., this 30th day of May 1979.

William B. Lewis,

Administrator, United States Employment Service.

[FR Doc. 79-17391 Filed 6-4-79; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-79-66-C]

Webster County Coal Corp; Petition for Modification of Application of Mandatory Safety Standard

Webster County Coal Corporation, Rural Route 3, Clay, Kentucky 42404, has filed a petition to modify the application of 30 CFR 75.803 (ground check circuits), to its Dotiki Mine, located in Webster County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petition follows:

1. The petition concerns the installation of a fail safe ground check circuit to monitor a 7,200-volt three phase overload power line. This power line supplies electricity to the Lisman shaft of the petitioner's mine from the main mine power transformer, a distance of about 2½ miles.

2. The ground conductor of the power line is grounded at alternate power poles en route to the Lisman shaft and is continuous back to the ground side of the ground resistor located at the main power transformer.

3. The power line serves the circuit breakers for the Lisman shaft fan, hoist and bathhouse as well as serving the Lisman shaft undergound circuit breaker.

4. The petitioner states that a ground check circuit system would result in a diminution of safety to its miners for the following reasons:

a. Ground check circuits are subject to outages caused by stray currents.

b. The power line is subject to stray electrical currents caused by lightning striking anywhere near the line.

c. Therefore, during storms and other electrical disturbances, it is possible that the power supply to the Lisman shaft would be disrupted several times, shutting down the mine ventilation fan and preventing normal entrance and exit from the mine by the man hoist.

5. As an alternative, the petitioner proposes visual inspection of the entire power line on a weekly basis.

Request for Comments

Persons interested in this petition may furnish written comments on or before July 5, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: May 24, 1979.

Robert B. Lagather,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 79-17356 Filed 6-4-79; 8:45 am]

BILLING CODE 4510-43-M

Occupational Safety and Health Administration

National Advisory Committee on Occupational Safety and Health; Meeting

Notice is hereby given that the National Advisory Committee on Occupational Safety and Health (NACOSH) will meet on June 18, 1979 at the New Department of Labor Building, 3rd Street and Constitution Avenue, N.W., Washington, D.C. The Committee will meet in Room N-5437. The meeting will begin at 9:00 a.m. The public is invited to attend.

The National Advisory Committee was established under section 7(a) of the Occupational Safety and Health Act of 1970 (Pub. L. 91-596) to advise the Secretary of Labor and the Secretary of Health, Education, and Welfare on matters relating to the administration of the Act.

The meeting agenda will include an appearance by Richard Bergman to discuss the Draft Report of the Interagency Task Force on Workplace Safety and Health, and representatives of the National Safety Council who will summarize the Council's National Program to Improve Occupational Injury Information.

FOR ADDITIONAL INFORMATION CONTACT: Clarence Page, Division of Consumer Affairs, Occupational Safety and Health Administration, Room N-3635, 3rd Street and Constitution Ave., NW., Washington D.C. 20210, telephone 202-523-8024.

Written data or views concerning these agenda items may be submitted to the Division of Consumer Affairs. Such documents which are received before the scheduled meeting dates, preferably with 20 copies, will be presented to the Committee and included in the official record of the proceedings.

Anyone who wishes to make an oral presentation should notify the Division of Consumer Affairs before the meeting date. The request should include the amount of time desired, the capacity in which the person will apepar and a brief outline of the content of the presentation. Oral presentations will be scheduled at the discretion of the chairman of the Committee to the extent which time permits.

Official records of the meetings will be available for public inspection at the Division of Consumer Affairs.

Signed at Washington, D.C. this 31st day of May, 1979.

Eula Bingham,

Assistant Secretary of Labor.

[FR Doc. 79-17482 Filed 6-4-79; 8:45 am]

BILLING CODE 4510-26-M

Pension and Welfare Benefit Programs

Employee Benefit Plans: Proposed Exemption for a Transaction Involving the International Union of Operating Engineers, Local 12 Pension Trust; Hearing and Extension of Comment Period

AGENCY: Department of Labor.

ACTION: Notice of hearing and extension of comment period.

SUMMARY: This document contains a notice of public hearing and an extension of time in which to file comments with respect to an application filed by the Board of Trustees of the Local 12 Operating Engineers Pension Trust. The application is for an exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 and from certain taxes imposed by section 4975 of the Internal Revenue Code of 1954. The public hearing will allow persons who would be affected by the proposed exemption to present oral comments to the Department of Labor.

DATES: Persons who wish to present oral comments at the hearing shall submit a statement to that effect which must be received by the Department on or before Friday, July 6, 1979. Written comments must be received by the Department of Labor on or before Friday, July 6, 1979.

ADDRESS: Statements and any written comments on the proposed exemption should be sent to: Office of Fiduciary Standards, Pension and Welfare Benefit

Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216, Attention: Hearing, Application No. D–911. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Charles Humphrey of the Department of Labor, (202) 523–8881. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of a public hearing to be held before the Department of Labor (the Department) with respect to a proposed exemption from the restrictions of section 406(a)(1)(A) and (D) and 406(b)(1) and (b)(2) of the Act and from the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(A), (D) and (E) of the Code. The proposed exemption was requested in an application filed by the Board of Trustees of the Operating Engineers Pension Trust pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in ERISA Procedure 75—1 (40 FR 18471, April 28, 1975).

The proposed exemption, if granted, would allow the sale of a certain parcel of real property by the Operating Engineers Pension Trust (the Plan) to the International Union of Operating Engineers, Local 12 (the Union), in connection with a program to centralize the location of the administrative offices of the Union and the Plan in Pasadena, California.

A Notice of Pendency of the proposed exemption was published in the **Federal Register** on Friday, April 20, 1979 (44 FR 23596). By means of the Notice of Pendency, interested persons were invited to submit written comments and requests for a public hearing with respect to the proposed exemption. Several comments and requests for a public hearing have been received by the Department.

Based on those requests, the Department has determined that a public hearing regarding the proposed exemption will be held on Friday, July 13, 1979, beginning at 10:00 a.m. in Room C–4526 of the Department of Labor Building, 200 Constitution Avenue NW., Washington, D.C. 20216.

Any person who desires to present oral comments at the hearing, and who wishes to be assured of being heard, shall submit a statement to that effect, indicating the amount of time he wishes to devote to his oral comments. Such statement and any written comments that such person wishes to be considered in conjunction with his presentation should be submitted to the address specified in "Address" above, within the time period set forth in "Dates" above.

An agenda will be prepared by the Department, containing the order of presentation of oral comments. Copies of the agenda will be available at the hearing. Information concerning contents of the agenda may be obtained on or after Monday, July 9, 1979 by telephoning the person whose name and number are shown above.

Ordinarily, ten minutes will be allowed each person for making an oral presentation. In addition, persons presenting such oral comments should be prepared to answer questions relating to the proposed exemption. At the conclusion of presentation of comments by persons listed on the agenda, other comments will be received to the extent time permits. The public hearing will be transcribed.

In addition to requests for a public hearing certain interested parties have requested an extension of the time period allowed for comment contained in the Notice of Pendency. The Notice of Pendency appeared in the April 1979 issue of the Local 12 *News-Record* which was mailed to members of Local Union No. 12. One commentator pointed out, for example, that the time period for the submission of written comments was not sufficient to allow properly researched rebuttals of the proposal by interested parties and noted that he received his copy of the *News-Record* only 13 business days before the comment period was to close.

Accordingly, in the interest of providing an adequate period for public comment, the time period for the receipt of comments on the proposed exemption is hereby reopened until Friday, July 13, 1979. All written comments should be sent to the address set forth above.

In order to provide timely notice, interested parties will be advised of this notice by an announcement at the General Membership Meeting of the Union to be held June 2, 1979, at the Hollywood Palladium, 6215 Sunset Blvd., Hollywood, California. Copies of this notice will be distributed at such time to interested members. In addition, copies of the notice will be available to members at the principal office and all outlying offices of Local Union No. 12.

Signed at Washington, D.C. this 30th day of May, 1979.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 79–17344 Filed 6–4–79; 8:45 am]

BILLING CODE 4510–29–M

[Prohibited Transaction Exemption 79–25; Application No. D–182]

Exemption from the Prohibitions Respecting a Transaction Involving the Arkansas, Inc. Profit Sharing and Retirement Plans

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption enables the Arkansas, Inc., Profit Sharing and Retirement Plans (the Plans) to sell certain real property to Construction Machinery of Arkansas, Inc. (the Employer).

FOR FURTHER INFORMATION CONTACT: Ronald D. Allen, Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216, telephone (202) 523–8883. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On January 5, 1979, notice was published in the **Federal Register** (44 FR 1477) of the pendency before the Department of Labor (the Department) and the Internal Revenue Service (the Service) of an exemption from the provisions of sections 406(a) and 406 (b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the taxes imposed by sections 4975 (a) and (b) of the Internal Revenue Code of 1954 (the Code) by reason of sections 4975(c)(1) (A) through (E) of the Code, for a transaction described in an application filed on behalf of the Plan.

The notice set forth a summary of the facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition, the notice stated that any interested person might submit a written request that a hearing be held relating to the requested exemption.

No public comments or requests for a hearing were received by the Department.

The application was filed with both the Department and the Service. However, the notice of pendency was issued and the exemption is being granted, solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and § 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things, require a fiduciary to discharge his duties respecting the plan solely in the interest of participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and § 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and § 4975(c)(2) of the Code, the procedures set forth in ERISA Proc. 75–1 (40 FR 18471, April 28, 1975) and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of participants and beneficiaries of the Plan.

Accordingly, the following exemption is hereby granted under the authority of section 408(a) of the Act and § 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Proc. 75–1.

The restrictions of sections 406(a) and 406 (b)(1) and (b)(2) of the Act and the taxes imposed by §§ 4975(c)(1) (A) through (E) of the Code shall not apply to the sale by the Plans to the Employer of the parcel of real property located in the Otter Creek Industrial Park, Little Rock, Arkansas, for the greater of $38,000 cash or the fair market value of the property at the time of the sale.

The availability of this exemption is subject to the express conditions that the material facts and representations contained in the application accurately describe all material terms of the transaction consummated pursuant to the exemption.

Signed at Washington, D.C. this 29th day of May, 1979.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 79-17345 Filed 6-4-79; 8:45 am]

BILLING CODE 4510-29-M

[Application Nos. D-023 and D-024]

Proposed Exemption for Certain Transactions Involving the Padilla and Speer, Inc. Retirement Plan and Trust and Profit Sharing Plan and Trust

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt certain loans made to Padilla and Speer, Inc. (the Employer) from the Padilla and Speer, Inc. Retirement Plan and Trust (Pension Plan) and the Padilla and Speer, Inc. Profit Sharing Plan and Trust (Profit Sharing Plan) which were entered into before the effective date of the Act, but after July 1, 1974, the date specified in the transition rules contained in sections 414 and 2003 of the Act. The proposed exemption, if granted, would affect the Employer and participants and beneficiaries of the Plans.

DATES: Written comments and requests for public hearing must be received by the Department on or before July 5, 1979.

EFFECTIVE DATE: If the proposed exemption is granted, the exemption will be effective January 1, 1975.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to: Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application Nos. D–023 and D–024. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz, Office of Fiduciary Standards, U.S. Department of Labor, (202) 523–8530. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of a proposed exemption from the restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and from the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by a trustee of the Plans, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). This application was filed with both the Department and the Internal Revenue Service. However, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains facts and representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Employer is a Minnesota corporation, employing approximately 21 employees, engaged in the public relations business.

2. The Pension Plan was established in 1968 and as of July 14, 1975, had approximately 9 participants. The Profit Sharing Plan was established in 1971 and as of July 14, 1975, had approximately 6 participants.

3. On August 7, 1974, the Pension Plan and the Profit Sharing Plan entered into a transaction with the Employer wherein the Pension Plan loaned the sum of $16,000 to the Employer and the Profit Sharing Plan loaned the sum of $8,000, both payable, together with interest at the rate of 3½% in excess of the prime rate, in 30 equal consecutive monthly installments commencing September 15, 1974. The loans were collaterally secured by a pledge of all accounts receivable and contract rights of the Employer, which, as of august 7, 1974, had a value of approximately $124,627. With respect to such collateral security, the parties executed written security agreements and appropiate financing statements pursuant to the Uniform Commercial Code. The financing statements were filed in the office of the Secretary of State of Minnesota as Document Nos. 282330 and 282331 on August 31, 1974, recording the security interests of both the Pension Plan and the Profit Sharing Plan in and to the accounts receivable and contract rights. As of June 1, 1975, the principal unpaid balance due the Pension Plan was $11,185 and the balance due the Profit Sharing Plan was $5,570. These amounts constituted approximately 12 percent of the total assets of the Pension Plan and 11 percent of the total assets of the Profit Sharing Plan.

4. The interest rate of 3½ percent over the prime rate was the interest rate being quoted by Midland National Bank on a loan with similar terms which was replaced by the subject loans on August 7, 1974. The security for the subject loans was the identical security required by Midland National Bank on the loan which was replaced by these borrowings.

5. All payments to the Plans were made in accordance with the loan agreement, and the loans were completely repaid as of February 14, 1977.

6. In summary, the applicant represents that the statutory criteria contained in section 408(a) of the Act have been satisfied as follows: (1) the interest rate paid to the Plans was the same as the rate being charged by an independent bank for similar loans, (2) the loans were adequately secured at all times with collateral identical to that required by the independent bank, and (3) the loans have been repaid in full, pursuant to the terms of the loan agreement.

Finally, the applicant represents that the loans were entered into prior to the effective date of the Act without knowledge that the transaction would become prohibited on January 1, 1975. As soon as the applicant realized that the loan would become a prohibited transaction, the applicant submitted a good faith request for an exemption instead of terminating the loan transaction.

Notice to Interested Persons

Within ten days after receipt by the Employer of a copy of this notice of proposed exemption, written notice will be provided to each participant of both Plans by means of personal delivery.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transactions provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act which require, among other things, that a fiduciary discharge his duties respecting the plan solely in the interests of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the proposed exemption to the address and within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the proposed exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1. If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act, and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply, effective January 1, 1975, to the loan agreement entered into on August 7, 1974, in which the Pension Plan loaned $16,000 to the Employer, and the Profit Sharing Plan loaned $8,000 to the Employer. The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations are true and complete, and that the application accurately describes all material terms of the transaction.

Signed at Washington, D.C., this 30th day of May, 1979.

Ian D. Lanoff,

Administrator of Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 79–17348 Filed 6–4–79; 8:45 am]

BILLING CODE 4510–29–M

Proposed Amendment of Prohibited Transaction Exemption 77–9

AGENCY: Department of Labor.

ACTION: Notice of Proposed Amendment to Exemption.

SUMMARY: This document contains a proposal by the Department of Labor (the Department) to delay for six months the effective date of a condition of

Prohibited Transaction Exemption 77–9, the class exemption relating to certain transactions commonly engaged in by employee benefit plans with insurance agents and brokers, pension consultants, insurance companies, investment companies and investment company principal underwriters. The proposed delay would affect participants, beneficiaries and fiduciaries of employee benefit plans, sponsors of such plans, insurance agents and brokers, pension consultants and insuance companies.

DATES: Written comments and request for a public hearing must be received by the Department of Labor on or before July 5, 1979. The amendment would be retroactively effective as of January 1, 1979.

ADDRESS: All written comments and requests for a hearing (preferably at least six copies) should be sent to: Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, D.C. 20216.

Attn: PTE 77–9. The application to amend the exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4627, 200 Constitution Avenue, NW, Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Robert R. Bitticks, Esq., Room C–4508, Plan Benefits Security Division, Office of the Solicitor, Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 202–523–8620. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Department has under consideration a proposal to amend Prohibited Transaction Exemption 77–9, a class exemption which permits certain transactions that might otherwise be prohibited by the Employee Retirement Income Security Act of 1974 (the Act) and be subject to excise taxes imposed by the Internal Revenue Code of 1954 (the Code) as amended by the Act. The exemption relates to various common transactions engaged in by insurance agents and brokers, pension consultants, insurance companies, investment companies and investment company principal underwriters in connection with the sale to employee benefit plans of insurance and annuity contracts and securities issued by investment companies.

The exemption was granted on June 24, 1977 (42 FR 32395).[1] On that same date, additional conditions were proposed to be added to the exemption (42 FR 32399). The proposed additional conditions together with other proposed amendments (see 43 FR 18354, April 28, 1978), were the subject of a public hearing on July 20, 1978. The exemption, as amended, was filed with the **Federal Register** on December 29, 1978 and published on January 5, 1979 (44 FR 1479). Among other conditions, one of the conditions which had been proposed on June 24, 1977 was adopted, effective for transactions entered into after December 31, 1978. That condition requires that in order to take advantage of the exemption, an insurance agent or broker or pension consultant must, with respect to a transaction (occurring after December 31, 1978) involving the purchase with plan assets of an insurance or annuity contract or the receipt of a sales commission thereon, provide to an independent plan fiduciary, prior to execution of the transaction, a description of any charges, fees, discounts, penalties or adjustments which may be imposed under a recommended contract in connection with the purchase, holding, exchange, termination or sale of such contract.

The American Council of Life Insurance and certain life insurance companies (the applicants) have jointly requested[2] that the Department postpone the effective date of that condition, as it applies to insurance agents, brokers and pension constultants,[3] until July 1, 1979. The applicants represent that insurance companies will have to develop new disclosure materials to be used to comply with the condition of the exemption as proposed and adopted, and that interpretive and drafting problems will make the process of creating the materials difficult and time consuming. Further, it is estimated by the applicants that it will take at least six to eight weeks to have the new disclosure forms printed and distributed to field personnel located throughout the United States. Companies which have considered all of the separate tasks that must be undertaken to provide agents, brokers and consultants with disclosure forms that will satisfy the new disclosure condition do not believe that compliance can reasonably be achieved prior to July 1, 1979.

[1] While the exemption was originally adopted and amended jointly by the Department and the Internal Revenue Service, it is proposed to be amended now by the Department acting alone pursuant to authority granted by Executive Reorganization Plan No. 4 of 1978 (43 FR 47713), effective December 31, 1978 (44 FR 1065).

[2] Letter dated February 28, 1979 to the Department from the American Council of Life Insurance and on behalf of The Prudential Insurance Company of America, The Equitable Life Assurance Society of the United States, John Hancock Mutual Life Insurance Company, Connecticut General Life Insurance Company, Aetna Life & Casualty, and the Mutual Life Insurance Company of New York.

[3] The condition appears in two places in the exemption. In section V(b)(1)(C) it is applicable to insurance agents and brokers and pension consultants. In section V(c)(1)(C) it is applicable to investment company principal underwriters. The Department has not been requested and does not propose to delay the effective date of the condition as it applies to investment company principal underwriters. The Department assumes that no request for postponement for investment company principal underwriters has been made because disclosure documents required under the federal securities laws already contained or were readily modified to contain the disclosures required by the new condition to the exemption.

Proposed Amendment

Based upon the request for amendment of the exemption referred to above, the Department has under consideration the adoption of the following amendment to Prohibited Transaction Exemption 77–9 pursuant to the authority of section 408(a) of the Act and § 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975).

It is proposed to amend section V(b)(1)(C) of the exemption to delete the date "December 31, 1978" and substitute therefor "June 30, 1979," effective as of January 1, 1979.

Signed at Washington, D.C. this 29th day of May, 1979.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Department of Labor.

[FR Doc. 79–17347 Filed 6–4–79; 8:45 am]

BILLING CODE 4510–29–M

Office of the Secretary

[TA–W–5247]

Amstar Corp., Spreckels Sugar Division, Chandler, Ariz.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

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 was initiated on April 18, 1979 in response to a worker petition received on April 16, 1979 which was filed on behalf of workers and former workers growing and harvesting sugar beets and producing refined beet sugar at the Chandler, Arizona processing plant of the Spreckels Sugar Division of Amstar Corporation. It is concluded that all of the requirements have been met.

United States imports of cane and beet sugar (raw value) increased both absolutely and relative to domestic production in 1977 from 1976 and decreased in 1978 compared to 1977. U.S. production of sugar decreased in 1977 from 1976 and in 1978 from 1977 while sugar imports reached an all-time high in 1977. The ratio of imports to domestic production increased from 65 percent in 1976 to 95 percent in 1977 and decreased to 78 percent in 1978. The ratio of imports to domestic production averaged 62 percent in the 1975–1976 period and averaged 86 percent in the 1977–1978 period.

Imports of raw sugar into the United States were subject to quotas from 1935 to December 31, 1974. Since December 31, 1974, when the Sugar Act expired, imported sugar has entered the U.S. free of quantity restrictions.

In September 1977, the U.S. Department of Agriculture, considering depressed conditions in the domestic sugar market, instituted a price support program in an effort to guarantee a floor price level paid to sugar producers. The U.S. International Trade Commission conducted an investigation under Section 22 of the Agricultural Adjustment Act and in April 1978 issued a finding that sugar was being imported in such quantities as to render, or tend to render, ineffective the price support program conducted by the U.S. Department of Agriculture for sugar cane and sugar beets.

The depressed price of sugar in the world market was a significant factor which led to a decline in the amount of sugar beet acreage contracted, planted and harvested by growers for the Spreckels Sugar Division of Amstar Corporation in crop year 1977 (July 1, 1977 through June 30, 1978) from crop year 1976. Sales and production of refined beet sugar by the Spreckels Sugar Division, and production and employment by the Chandler, Arizona processing plant, declined in 1977 from 1976 and declined again in 1978 from 1977.

Amstar Corporation has discontinued the fall campaign at the Chandler, Arizona processing plant. The 1978 fall campaign was the last fall campaign to be conducted by the Chandler 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 refined beet sugar produced at the Chandler, Arizona processing plant of the Spreckels Sugar Division of Amstar Corporation contributed importantly to the decline in sales or 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 of the Chandler, Arizona processing plant of the Spreckels Sugar Division of Amstar Corporation who became totally or partially separated from employment on or after April 11, 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 29th day of May 1979.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 79-17362 Filed 6-4-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5006]

Amstar Corp., Spreckels Sugar Division, Manteca, Calif.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

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 was initiated on March 21, 1979 in response to a worker petition received on March 15, 1979 which was filed by the Distillery, Wine, and Allied Workers' International Union of America on behalf of workers and former workers producing refined beet sugar at the Manteca, California processing plant of the Spreckels Sugar Division of Amstar Corporation. It is concluded that all of the requirements have been met.

United States imports of cane and beet sugar (raw value) increased both absolutely and relative to domestic production in 1977 from 1976 and decreased in 1978 compared to 1977. U.S. production of sugar decreased in 1977 from 1976 and in 1978 from 1977 while sugar imports reached an all-time high in 1977. The ratio of imports to domestic production increased from 65 percent in 1976 to 95 percent in 1977 and decreased to 78 percent in 1978. The ratio of imports to domestic production averaged 62 percent in the 1975–1976 period and averaged 86 percent in the 1977–1978 period.

Imports of raw sugar into the United States were subject to quotas from 1935 to December 31, 1974. Since December 31, 1974, when the Sugar Act expired, imported sugar has entered the U.S. free of quantity restrictions.

In September 1977, the U.S. Department of Agriculture, considering depressed conditions in the domestic sugar market, instituted a price support program in an effort to guarantee a floor price level paid to sugar producers. The U.S. International Trade Commission conducted an investigation under Section 22 of the Agricultural Adjustment Act and in April 1978 issued a finding that sugar was being imported in such quantities as to render, or tend to render, ineffective the price support program conducted by the U.S. Department of Agriculture for sugar cane and sugar beets.

Due to depressed sugar prices in the world market and adverse weather conditions in California the amount of sugar beet acreage contracted, planted and harvested by independent growers for the Spreckels Sugar Division of Amstar Corporation declined in crop year 1977 (July 1, 1977 through June 30, 1978) from crop year 1976. Sales and production of refined beet sugar by the Spreckels Sugar Division, and production and employment by the Manteca, California processing plant, declined in 1977 from 1976 and declined again in 1978 from 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 refined beet sugar produced at the Manteca, California processing plant of the Spreckels Sugar Division of Amstar Corporation contributed importantly to the decline in sales or 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 of the Manteca, California processing plant of the Spreckels Sugar Division of Amstar Corporation who became totally or partially separated from

employment on or after March 13, 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 29th day of May 1979.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 79-17360 Filed 6-4-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5302; TA-W-5302-A]

Amstar Corp., Spreckels Sugar Division, Salinas, and Mendota, Calif.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

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 was initiated on April 26, 1979 in response to a worker petition received on April 16, 1979 which was filed by the Distillery, Wine, and Allied Workers' International Union of America on behalf of workers and former workers producing refined beet sugar at the Salinas, California processing plant of the Spreckels Sugar Division of Amstar Corporation (TA-W-5302). The investigation was expanded to include the Mendota, California processing plant of the Spreckels Division (TA-W-5302-A). It is concluded that all of the requirements have been met.

United States imports of cane and beet sugar (raw value) increased both absolutely and relative to domestic production in 1977 from 1976 and decreased in 1978 compared to 1977. U.S. production of sugar decreased in 1977 from 1976 and in 1978 from 1977 while sugar imports reached an all-time high in 1977. The ratio of imports to domestic production increased from 65 percent in 1976 to 95 percent in 1977 and decreased to 78 percent in 1978. The ratio of imports to domestic production averaged 62 percent in the 1975–1976 period and averaged 86 percent in the 1977–1978 period.

Imports of raw sugar into the United States were subject to quotas from 1935 to December 31, 1974. Since December 31, 1974, when the Sugar Act expired, imported sugar has entered the U.S. free of quantity restrictions.

In September 1977, the U.S. Department of Agriculture, considering depressed conditions in the domestic sugar market, instituted a price support program in an effort to guarantee a floor price level paid to sugar producers. The U.S. International Trade Commission conducted an investigation under Section 22 of the Agricultural Adjustment Act and in April 1978 issued a finding that sugar was being imported in such quantities as to render, or tend to render, ineffective the price support program conducted by the U.S. Department of Agriculture for sugar cane and sugar beets.

Due to depressed sugar prices in the world market and adverse weather conditions in California the amount of sugar beet acreage contracted, planted and harvested by independent growers for the Spreckels Sugar Division of Amstar Corporation declined in crop year 1977 (July 1, 1977 through June 30, 1978) from crop year 1976. Sales and production of refined beet sugar by the Spreckels Sugar Division, and production and employment by the Salinas and Mendota processing plants, declined in 1977 from 1976 and declined again in 1978 from 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 refined beet sugar produced at the Salinas, California and Mendota, California processing plants of the Spreckels Sugar Division of Amstar Corporation contributed importantly to the decline in sales or production and to the total or partial separation of workers of those plants. In accordance with the provisions of the Act, I make the following certification:

All workers of the Salinas, California and Mendota, California processing plants of the Spreckels Sugar Division of Amstar Corporation who became totally or partially separated from employment on or after April 11, 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 29th day of May 1979.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 79-17363 Filed 6-4-79; 8:45am]

BILLING CODE 4510-28-M

[TA-W-5024]

Amstar Corp., Spreckels Sugar Division, Woodland, Calif.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

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 was initiated on March 23, 1979 in response to a worker petition received on March 15, 1979 which was filed by the Distillery, Wine, and Allied Workers' International Union of America on behalf of workers and former workers producing refined beet sugar at the Woodland, California processing plant of the Spreckels Sugar Division of Amstar Corporation. It is concluded that all of the requirements have been met.

United States imports of cane and beet sugar (raw value) increased both absolutely and relative to domestic production in 1977 from 1976 and decreased in 1978 compared to 1977. U.S. production of sugar decreased in 1977 from 1976 and in 1978 from 1977 while sugar imports reached an all-time high in 1977. The ratio of imports to domestic production increased from 65 percent in 1976 to 95 percent in 1977 and decreased to 78 percent in 1978. The ratio of imports to domestic production averaged 62 percent in the 1975–1976 period and averaged 86 percent in the 1977–1978 period.

Imports of raw sugar into the United States were subject to quotas from 1935 to December 31, 1974. Since December 31, 1974, when the Sugar Act expired, imported sugar has entered the U.S. free of quantity restrictions.

In September 1977, the U.S. Department of Agriculture, considering depressed conditions in the domestic sugar market, instituted a price support program in an effort to guarantee a floor price level paid to sugar producers. The U.S. International Trade Commission conducted an investigation under

Section 22 of the Agricultural Adjustment Act and in April 1978 issued a finding that sugar was being imported in such quantities as to render, or tend to render, ineffective the price support program conducted by the U.S. Department of Agriculture for sugar cane and sugar beets.

Due to depressed sugar prices in the world market and adverse weather conditions in California the amount of sugar beet acreage contracted, planted and harvested by independent growers for the Spreckels Sugar Division of Amstar Corporation declined in crop year 1977 (July 1, 1977 through June 30, 1978) from crop year 1976. Sales and production of refined beet sugar by the Spreckels Sugar Division, and production and employment by the Woodland, California processing plant, declined in 1977 from 1976 and declined again in 1978 from 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 refined beet sugar produced at the Woodland, California processing plant of the Spreckels Sugar Division of Amstar Corporation contributed importantly to the decline in sales or 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 of the Woodland, California processing plant of the Spreckels Sugar Division of Amstar Corporation who become totally or partially separated from employment on or after March 13, 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 29th day of May 1979.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 79-17361 Filed 6-4-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5114]

B. & M. Coal Corp., No. 2B Deep Mine, McDowell County, W.V., Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

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 was initiated on April 5, 1979 in response to a worker petition received on April 2, 1979 which was filed by the United Mine Workers of America on behalf of workers and former workers mining coal at the B&M Coal Corporation #2B Deep Mine, McDowell County, West Virginia. The investigation revealed that the company mines metallurgical coal. In the following determination, at least one of the criteria 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 was conducted of the coal companies B&M worked for in 1978 and in the first quarter of 1979. These customers exported all of their metallurgical coal during the period under consideration. Production and employment increased during the comparable periods not affected by strikes.

Conclusion

After careful review, I determine that all workers of the #2B Deep Mine of the B&M Coal Corporation, McDowell County, West Virginia 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 May 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-17364 Filed 6-4-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5204]

B.M. Smith Trucking, Mount Hope, W. Va.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

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 was initiated on April 10, 1979, in response to a worker petition received on March 30, 1979, which was filed by the United Mine Workers of America on behalf of workers and former workers of B.M., Mount Hope, West Virginia, a coal transporter. The investigation revealed that the legal title of B.M. is B.M. Smith Trucking.

B.M. Smith Trucking is engaged in providing the service of transporting coal by truck from a customer's mine to a dumping point.

Thus, workers of B.M. Smith Trucking do not produce an article within the meaning of Section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from the parent firm, a firm otherwise related to B.M. Smith Trucking by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

B.M. Smith Trucking and its customers have no controlling interest in one another. The subject firm is not corporately affiliated with any other company.

All workers engaged in transporting coal by truck at B.M. Smith Trucking, Mount Hope, West Virginia, are employed by that firm. All personnel actions and payroll transactions are controlled by B.M. Smith Trucking. All employee benefits are provided and maintained by B.M. Smith Trucking. Workers are not, at any time, under employment or supervision by customers of B.M. Smith Trucking.

Thus, B.M. Smith Trucking, and not any of its customers, must be considered to be the "workers' firm".

Conclusion

After careful review, I determine that all workers of B.M. Smith Trucking, Mount Hope, West Virginia 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 May 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-17365 Filed 6-4-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5051]

Bailey Glass Co., Inc., Morgantown, W. Va.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273), the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

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 was initiated on March 29, 1979 in response to a worker petition received on March 27, 1979 which was filed by the American Flint Glass Workers of America on behalf of workers and former workers producing illuminating and blown glassware at Bailey Glass Company, Incorporated, Morgantown, West Virginia. The investigation revealed that the company produced primarily illuminating glassware.

In the following determination, at least one of the eligibility requirements 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 separations, or threat thereof, and to the absolute decline in sales or production.

A survey of customers of Bailey Glass Company, Incorporated, revealed generally that customers increased their purchases of illuminating glassware from other domestic firms while decreasing their purchases from Bailey Glass Company, Incorporated, from 1977 to 1978 and in the first quarter of 1979 compared to the same period of 1978. The customers that increased imports accounted for an insignificant proportion of Bailey Glass Company's sales and also increased purchases from other domestic firms.

Conclusion

After careful review, I determine that all workers of the Bailey Glass Company, Incorporated, Morgantown, West Virginia, 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 May 1979.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 79-17366 Filed 6-4-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-4275]

Bethlehem Steel Corp., General Offices, Bethlehem, Pa. and New York, N.Y. Revised Certification of Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 222 of the Trade Act of 1974 (19 USC 2273) and in accordance with Section 223(a) of such Act, on December 28, 1979 the Department of Labor issued a certification of eligibility to apply for adjustment assistance applicable to workers and former workers of the Corporate Services Division of Bethlehem Steel Corporation, Bethlehem, Pennsylvania and New York, New York (TA-W-4275).

The Notice of Certification was published in the **Federal Register** on January 5, 1979 (44 FR 1486).

Subsequent to the notice of the original determination, the Office of Trade Adjustment Assistance received an inquiry on behalf of a group of workers at the general offices of Bethlehem Steel Corporation in Bethlehem, Pennsylvania. Further investigation revealed that the workers were engaged in administrative and support functions integral to the company's production of steel products and should have been included in the original certification as eligible to apply for adjustment assistance. The initial investigation did not properly identify all of the workers who should have been covered under the original certification.

Conclusion

Based on additional evidence, a review of the entire record and in accordance with the provisions of the Act, I have determined that the original certification is hereby revised as follows:

All workers at the general offices of Bethlehem Steel Corporation in Bethlehem, Pennsylvania, and New York, New York, who became totally or partially separated from employment on or after October 10, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 29th day of May 1979.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 17367 Filed 6-4-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5119]

Camco Mining, Inc., Wyoming County, W. Va.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

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 was initiated on April 5, 1979, in response to a worker petition received on April 2, 1979, which was filed by the United Mine Workers of America on behalf of workers and former workers mining coal at Camco Mining Incorporated, Wyoming County, West Virginia. It is concluded that all of the requirements have been met.

U.S. imports of coal are negligible. However, in accordance with section 222 of the Trade Act of 1974 and 29 CFR 90.2, a domestic article may be "directly competitive" with an imported article at a later stage of processing. Coke is metallurgical coal at a later stage of processing. Therefore, imports of coke as well as imports of metallurgical coal should be considered in determining import injury to workers producing metallurgical coal.

U.S. imports of coke increased absolutely and relatively from 1977 to 1978.

Camco Mining performs contract work exclusively for a larger coal company. This larger coal company's sales declined from 1977 to 1978. The Department of Labor surveyed the major customers purchasing metallurgical coal from the larger coal company. The survey indicated that a significant proportion of the customers increased purchases of imported metallurgical coal and/or coke and decreased purchases from the larger coal company from 1977 to 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 the metallurgical coal produced at Camco Mining, Incorporated, Wyoming County, West Virginia 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 Camco Mining, Incorporated, Wyoming County, West Virginia who became totally or partially separated from employment on or after March, 24, 1979 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 May 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-17368 Filed 6-4-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5350]

Coat Corp. of New Jersey, Egg Harbor, N.J.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

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 was initiated on May 1979 in response to a worker petition received on April 30, 1979 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing ladies' blazers at Coat Corporation of New Jersey, Egg Harbor, New Jersey. In the following determination, without regard to whether any of the 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 productions.

Coat Corporation began producing ladies' blazers in January 1977. Production and employment at Coat Corporation, increased in the February–December 1978 period compared to the same period in 1977, and in the first quarter of 1979 compared to the same period in 1978. All declines in production were as a result of normal business fluctuations.

Conclusion

After careful review, I determine that all workers of Coat Corporation of New Jersey, Egg Harbor, New Jersey 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 May 1979.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 79-17369 Filed 6-4-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5037]

Convy Shoe Supplies Co., Cuba, Mo.; Negative Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

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 was initiated on March 26, 1979 in response to a worker petition received on March 26, 1979 which was filed by the Footwear Division of the Retail Clerks International Union on behalf of workers and former workers producing shoe supplies: heels, pads, box toes, etc. at Convy Shoe Supplies Company, Cuba, Missouri. In the following determination, 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.

With respect to workers producing shoe supplies, excluding heels, it was found that imports of shoe components were negligible in 1976, 1977 and 1978.

With respect to workers covering heels, it was found that imports of nonleather bottom stock materials for footwear remained stable in 1978 compared with 1977.

The Department conducted a survey of Convy Shoe Supplies Company's customers who purchased heels. The survey indicated the customers did not purchase imported heels for shoes.

Conclusion

After careful review, I determine that all workers of Convy Shoe Supplies Company, Cuba, Missouri 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 May 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-17370 Filed 6-4-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-4468]

Corn Products, a Unit of CPC North America, Inc., Corpus Christi, Tex.; Affirmative Determination Regarding Application for Reconsideration

On May 11, 1979, the petitioner (OCAW) for workers and former workers of Corn Products, a Unit of CPC North America, Incorporated, requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance. This determination was published in the **Federal Register** on April 20, 1979, (44 FR 23599).

The petitioner claims that the company stated that importation of sugar was among the three principal causes of the closure of the dextrose channel. Further, the petitioner claims that it has not observed an increase in the production of dextrose at the three northern plants of CPC's Corn Products Unit.

Conclusion

After review of the application, I conclude that the claims of the petitioner are of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, D.C.,this 25th day of May 1979.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 79-17371 Filed 6-4-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-4951]

Cotillion Knitting Mills, Ltd., A.K.A. Banks Knitting Mills, Brooklyn, N.Y.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

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 was initiated on March 15, 1979, in response to a workers petition received on March 7, 1979, which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing ladies' sportswear at Cotillion Knitting Mills, Ltd., Brooklyn, New York. The investigation revealed that Cotillion is also known as Banks Knitting Mills and that Cotillion produces primarily ladies' sweaters. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses and children's sweaters declined absolutely and relatively from 1976 to 1977 and declined absolutely from 1977 to 1978. The ration of imports to domestic production (I/P) was 140.8 percent in 1977. The I/P ration has exceeded 100 percent in each year from 1974 and 1977.

The Department surveyed customers of the manufacturers for whom Cotillion performed contract work in 1977, 1978 and the first quarter of 1979. The survey revealed that these customers reduced purchases of women's sweaters from the manufacturers from 1977 to 1978 and in the first quarter of 1979 compared to the first quarter of 1978 and increased purchases of imported sweaters during the same time period. This is consistent with industry data which show that more than half of the sweaters sold in the United States in the 1974–1977 period have been imported.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's sweaters produced at Cotillion Knitting Mills, Ltd., A.K.A. Banks Knitting Mills, Brooklyn, New York 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 Cotillion Knitting Mills, A.K.A. Banks Knitting Mills, Brooklyn, New York who became totally or partially separated from employment on or after March 7, 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 29th day of May 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-17372 Filed 6-4-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5089]

Eagle Knitting Mills, Milwaukee, Wis.; Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of investigations regarding certifications of eligibility to apply for worker adjustment assistance.

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 was initiated on March 30, 1979 in response to a worker petition received on March 29, 1979 which was filed on behalf of workers and former workers producing knitted headwear at Eagle Knitting Mills, Milwaukee, Wisconsin. The investigation revealed that the Eagle Knitting Mills is a plant owned by Zwicker Knitting Mills, Appleton, Wisconsin and that its correct legal name is Zwicker Knitting Mills. The investigation also revealed that Eagle produces knit fabric for children's shirts, skirts and pants. In the following determinations, without regard to whether any of the other criteria have been met for workers producing knitted fabric for children's shirts, skirts and pants, the following criteria has not been met:

That sales or production, or both, of the firm or appropriate subdivision have decreased absolutely.

Sales and production of knitted fabric for children's shirts, skirts and pants at Eagle Knitting Mills increased in each quarter of 1978 and in the first quarter of 1979 compared to the same quarter one year earlier.

For workers producing knitted headwear all of the criteria have been met.

U.S. imports of knitted headwear increased absolutely in 1977 and 1978 compared to the preceding years.

The investigation revealed that the Eagle plant conducts the sewing operation for knitted headwear which is sold by Zwicker Knitting Mills of Appleton, Wisconsin. A Departmental survey was conducted of customers of Zwicker Knitting Mills who purchase knitted headwear. The survey revealed that customers, representing a significant proportion of Zwicker headwear sales, decreased their purchase of knitted headwear from Zwicker and increased their purchases of imports in the first quarter of 1979 compared to the first quarter of 1978 and in 1978 compared to 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 knitted headwear produced at Eagle Knitting Mills, (Zwicker Knitting Mills) in Milwaukee, Wisconsin contributed importantly to the decline in sales or 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 of Eagle Knitting Mills (Zwicker Knitting Mills) in Milwaukee, Wisconsin, engaged in employment related to the production of knitted headwear, who became totally or partially separated from employment on or after September 1, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 29th day of May 1979.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 79-17373 Filed 6-4-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5239]

Fleshman Trucking, Inc., Rainelle, W. Va.; Negative Determination Regarding Eligibility To Apply for worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the

Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

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 was initiated on April 16, 1979, in response to a worker petition received on April 2, 1979, which was filed by the United Mine Workers of America on behalf of workers and former workers of Fleshman Trucking, Incorporated, Rainelle, West Virginia.

Fleshman Trucking, Incorporated is engaged in providing the service of transporting coal by truck from a customer's mine to loading facilities for further shipment.

Thus, workers of Fleshman Trucking, Incorporated do not produce an article within the meaning of Section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from the parent firm, a firm related to Fleshman Trucking, Incorporated by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

Fleshman Trucking, Incorporated and its customers have no controlling interest in one another. The subject firm is not corporately affiliated with any other company.

All workers engaged in transporting coal by truck at Fleshman Trucking, Incorporated, Rainelle, West Virginia are employed by that firm. All personnel actions and payroll transactions are controlled by Fleshman Trucking, Incorporated. All employee benefits are provided and maintained by Fleshman Trucking, Incorporated. Workers are not, at anytime, under employment or supervision by customers of Fleshman Trucking, Incorporated. Thus, Fleshman Trucking, Incorporated, and not any of its customers, must be considered to be the "workers' firm".

Conclusion

After careful review, I determine that all workers of Fleshman Trucking, Incorporated, Rainelle, West Virginia 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 May 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-17374 Filed 6-4-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5198]

Florsheim Shoe Co., Kirksville, Mo; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

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 was initiated on April 10, 1979 in response to a worker petition received on April 2, 1979 which was filed by the United Shoe Workers of America on behalf of workers and former workers producing men's shoes at the Kirksville, Missouri plant of the Florsheim Shoe Company. It is concluded that all of the requirements have been met.

U.S. imports of men's dress and casual footwear increased absolutely and relative to domestic production in 1977 compared to 1976 and increased relative to domestic production in 1978 compared to 1977. imports as a percentage of domestic production exceeded 75 percent during 1976, 1977 and 1978.

Total Florsheim Shoe Company imports of men's footwear increased in 1977 and 1978 compared to the previous year and during the first quarter of 1979 compared to 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 men's dress footwear produced at the Kirksville, Missouri plant of the Florsheim Shoe Company 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 the Kirksville, Missouri plant of the Florsheim Shoe Company who became totally or partially separated from employment on or after March 15, 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 29th day of May 1979.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 79-17375 Filed 6-4-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5373]

Green Valley Trucking Co., Inc., Nicholas County, W. Va.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

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 was initiated on May 10, 1979, in response to a worker petition received on May 4, 1979, which was filed by the United Mine Workers of America on behalf of workers and former workers of Green Valley Trucking Company, Incorporated, Greenbrier County, West Virginia, engaged in transporting coal from the mine to the cleaning plant. The investigation revealed that the firm is located in Nicholas County, West Virginia.

Green Valley Trucking Company, Incorporated, Nicholas County, West Virginia is engaged in providing the service of transporting coal by truck from a customer's mine to a cleaning plant.

Thus, workers of Green Valley Trucking Company, Incorporated do not produce an article within the meaning of Section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to Green Valley Trucking Company, Incorporated by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

Green Valley Trucking Company, Incorporated and its customers have no controlling interest in one another. The subject firm is not corporately affiliated with any other company.

All workers engaged in transporting coal by truck at Green Valley Trucking Company, Incorporated, Nicholas County, West Virginia, are employed by that firm. All personnel actions and payroll transactions are controlled by Green Valley Trucking Company, Incorporated. All employee benefits, are provided and maintained by Green Valley Trucking Company, Incorporated. Workers are not, at any time, under employment or supervision by customers of Green Valley Trucking Company, Incorporated. Thus, Green Valley Trucking Company, Incorporated, and not any of its customers, must be considered to be the "workers' firm".

Conclusion

After careful review, I determine that all workers of Green Valley Trucking Company, Nicholas County, West Virginia 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 May 1979.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 79-17376 Filed 6-4-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5091]

Greene Manufacturing Corp., West Orange, N.J.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

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 was initiated on March 30, 1979 in response to a worker petition received on March 30, 1979 which was filed on behalf of workers and former workers producing household rubber gloves at the Greene Manufacturing Corporation, West Orange, New Jersey. It is concluded that all of the requirements have been met.

U.S. imports of household rubber gloves increased absolutely from 1976 to 1977 and from 1977 to 1978.

A survey of some of the customers purchasing household rubber gloves from the Greene Manufacturing Corporation indicated that some reduced purchases from Greene Manufacturing and increased purchases of imports from 1977 to 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 household rubber gloves produced at the Greene Manufacturing Corporation, West Orange, New Jersey 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 the Greene Manufacturing Corporation, West Orange, New Jersey who became totally or partially separated from employment on or after August 16, 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 29th day of May 1979.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 79-17377 Filed 6-4-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5151]

Hellems Trucking, Inc., Rupert, W. VA.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

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 was initiated on April 5, 1979, in response to a worker petition received on April 2, 1979, which was filed by the United Mine Workers of America on behalf of workers and former workers of Hellems Trucking, Incorporated, Rupert, West Virginia, a hauler of coal.

Hellems Trucking, Incorporated is engaged in providing the service of transporting coal by truck from a customer's mine to a cleaning plant.

Thus, workers of Hellems Trucking, Incorporated do not produce an article within the meaning of Section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from the parent firm, a firm otherwise related to Hellems Trucking, Incorporated by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

Hellems Trucking, Incorporated and its customers have no controlling interest in one another. The subject firm is not corporately affiliated with any other company.

All workers engaged in transporting coal by truck at Hellems Trucking, Incorporated, Rupert, West Virginia are employed by that firm. All personnel actions and payroll transactions are controlled by Hellems Trucking, Incorporated. All employee benefits are provided and maintained by Hellems Trucking, Incorporated. Workers are not, at anytime, under employment or supervision by customers of Hellems Trucking, Incorporated. Thus, Hellems Trucking, Incorporated, and not any of its customers, must be considered to be the "workers' firm".

Conclusion

After careful review, I determine that all workers of Hellems Trucking, Incorporated, Rupert, West Virginia 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 May 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-17378 Filed 6-4-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5322]

Nu-Car Carriers, Inc., Newark, N.J.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

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 was initiated on April 30, 1979, in response to a worker petition received on April 12, 1979, which was filed by the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America on behalf of workers and former workers of Nu-Car Carriers, Incorporated, Newark, New Jersey, a transporter of motor vehicles.

Nu-Car Carriers, Incorporated, Newark, New Jersey is engaged in providing the service of transporting motor vehicles by truck from assembly plants and rail heads to points convenient for sale to the consumer.

Thus, workers of Nu-Car Carriers, Incorporated, Newark, New Jersey do not produce an article within the meaning of Section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to Nu-Car Carriers, Incorporated by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

Nu-Car Carriers, Incorporated and its customers have no controlling interest in one another. The subject firm is not corporately affiliated with any other company.

All workers engaged in transporting motor vehicles by truck at Nu-Car Carriers, Incorporated, Newark, New Jersey, are employed by that firm. All personnel actions and payroll transactions are controlled by Nu-Car Carriers, Incorporated. All employee benefits are provided and maintained by Nu-Car Carriers, Incorporated. Workers are not, at any time, under employment or supervision by customers of Nu-Car Carriers, Incorporated. Thus, Nu-Car Carriers, Incorporated, and not any of its customers, must be considered to be the "workers' firm".

Conclusion

After careful review, I determine that all workers of Nu-Car Carriers, Incorporated, Newark, New Jersey, 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 May 1979.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 79-17379 Filed 6-4-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5095]

Robton Process Co., Paterson, N.J.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

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 was initiated on March 30, 1979 in response to a worker petition received on March 29, 1979 which was filed on behalf of workers and former workers producing tanned rabbit skins at Robton Process Company, Paterson, New Jersey. It is concluded that all of the requirements have been met.

Evidence developed in the course of the investigation revealed that imports of dressed rabbit skins increased both absolutely and relative to domestic production from 1977 and 1978 and continued to increase relatively during the first quarter of 1979 compared to the same period of 1978.

A major customer of Robton who was surveyed indicated he reduced purchases of dressed rabbit skins from Robton while increasing purchases of imported dressed skins relative to total company purchases.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with dressed rabbit skins produced at Robton Process Company, Paterson, New Jersey 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 Robton Process Company, Paterson, New Jersey who became totally or partially separated from employment on or after October 27, 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 29th day of May 1979.

James F. Taylor,

Director, Office of Management Adminstration and Planning.

[FR Doc. 79-17380 Filed 6-4-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5034]

Roto-Print Corp., Occum, Conn., Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

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 was initiated on March 23, 1979 in response to a workers petition received on March 19, 1979, which was filed by three workers on behalf of workers and former workers producing drapery material at Roto-Print Corporation, Occum, Connecticut. The investigation revealed that the plant primarily produces finished printed fabric. In the following determination, without regard to whether any of the other criteria have been met, the following criteria 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 ratio of imports to domestic production has remained under 2 percent in 1974.

Company sales and production increased in 1978 as compared to 1977. Compared officials attributed quarterly declines to seasonality in sales and production in the home furnishings market, the ultimate end use of fabric printed by Roto-Print.

Employment at Roto-Print increased in 1977 as compared to 1976, and increased again in 1978 as compared to 1977. Employment increased in the first quarter of 1979 as compared to the same quarter in 1978. Any quarterly declines in employment were due to seasonality.

Conclusion

After careful review, I determine that all workers of Roto-Print Corporation, Occum, Connecticut 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 May 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-17381 Filed 6-4-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5310]

Sewell Mountain Trucking, Inc., Danese, W. Va.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligiblity to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on April 26, 1979, in response to a worker petition received on April 23, 1979, which was filed by the United Mine Workers of America on behalf of workers and former workers of Sewell Mountain Trucking, Incorporated, Danese, West Virginia, a truck hauler of coal.

Sewell Mountain Trucking, Incorporated is engaged in providing the service of transporting coal by truck from a customer's mine to a tipple.

Thus, workers of Sewell Mountain Trucking, Incorporated do not produce an article within the meaning of Section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to Sewell Mountain Trucking, Incorporated by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

Sewell Mountain Trucking, Incorporated and its customers have no controlling interest in one another. The subject firm is not corporately affiliated with any other company.

All workers engaged in transporting coal by truck at Sewell Mountain Trucking, Incorporated, Danese, West Virginia, are employed by that firm. All personnel actions and payroll transactions are controlled by Sewell Mountain Trucking, Incorporated. All employee benefits, are provided by Sewell Mountain Trucking, Incorporated. Workers are not, at any time, under employment of supervision by customers of Sewell Mountain Trucking, Incorporated. Thus, Sewell Mountain Trucking, Incorporated, and not any of its customers, must be considered to be the "workers' firm".

Conclusion

After careful review, I determine that all workers of Sewell Mountain Trucking, Danese, West Virginia, 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 May 1979.

Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-17382 Filed 6-4-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-2850]

U.S. Steel Corp., Corporate Headquarters, Pittsburgh, Pa.; Revised Certification of Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, the Department of Labor issued a Certification of Eligibility to Apply for Adjustment Assistance on April 14, 1978, applicable to all workers at U.S. Steel Corporation's Corporate Headquarters in Pittsburgh, Pennsylvania. The Notice of Certification was published in the **Federal Register** on April 25, 1978, (43 FR 17557).

At the request of one of the former workers, a further investigation was instituted by the Director of the Office of Trade Adjustment Assistance. A review of the case indicated that some layoffs of workers occurred a few weeks prior to the original impact date of March 1, 1977.

The intent of the certification is to cover all workers of the Corporate Headquarters of U.S. Steel Corporation, Pittsburgh, Pennsylvania, who were affected by the decline in production of steel related to import competition. The certification, therefore, is revised providing a new impact date of December 12, 1976.

The revised certification applicable to TA-W-2850 is hereby issued as follows:

All workers at the Corporate Headquarters of the U.S. Steel Corporation, Pittsburgh, Pennsylvania, who became totally or partially separated from employment on or after December 12, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of May 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-17383 Filed 6-4-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-4780]

U.S. Steel Corp., New Orleans District Sales Office, New Orleans, La., Affirmative Determination Regarding Application for Reconsideration

On April 13, 1979, one of the petitioners 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 U.S. Steel Corporation's New Orleans District Sales Office in New Orleans, Louisiana. This determination was published in the **Federal Register** on March 30, 1979 (44 FR 19071).

The petitioner maintains that separations occurred at the New Orleans District Sales Office as a result of increased import competition in the production of steel and not as a consequnce of a managerial decision to transfer the customer service function to the New Orleans office to the Houston, Texas, office. Further, the petitioner alleges that she was not offered a transfer to Houston. Offers of transfer were cited by the Department as supporting evidence for a denial.

Conclusion

After review of the application, I conclude that this claim of the petitioner is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted. Signed at

Washington, D.C., this 29th day of May 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-17384 Filed 6-4-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5099]

V & R Finishing, Inc., Ridgewood, N.Y.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

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 was initiated on March 30, 1979 in response to a worker petition received on March 30, 1979 which was filed on behalf of workers and former workers producing women's sweaters at V & R Finishing, Incorporated, Ridgewood, New York. The investigation revealed that the plant primarily produces ladies' tops and sweaters. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses' and children's blouses and shirts increased absolutely from 1976 to 1977 and from 1977 to 1978.

U.S. imports of women's, misses' and children's sweaters increased both absolutely and relative to domestic production from 1975 to 1976. Imports of sweaters in 1977 were greater than the average level of imports for the years 1973 through 1976. The ratio of imports of sweaters to domestic production (IP ratio) exceeded 140 percent in 1976 and in 1977. The IP ratio in 1977 was higher than the average IP ratio for the period 1973 through 1976. This ratio is not yet available for 1978.

A Department of Labor investigation revealed that V & R Finishing, Incorporated contracts primarily for the production of ladies' tops and sweaters. A Departmental survey was conducted with the sweater and top manufacturers from whom V & R receives contract work. The survey revealed that several manufacturers reduced contracts with V & R Finishing, Incorporated from 1977 to 1978 and in the first quarter of 1979 compared to the same period in 1978. The survey results also showed that these manufacturers' sales have declined in the same time periods. A survey of the retail customers of V & R's primary manufacturer revealed that the retail customers increased their purchases of imported sweaters in 1978 compared to 1977 and decreased their purchases of sweaters from domestic sources.

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' sweaters and tops produced at V & R Finishing, Incorporated, Ridgewood, New York 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 V & R Finishing, Incorporated, Ridgewood, New York who became totally or partially separated from employment on or after March 26, 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 29th day of May 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-17385 Filed 6-4-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-4948]

Wilker Brothers Co., Inc., McKenzie, Tenn., Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of investigations regarding certifications of eligibility to apply for worker adjustment assistance.

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 was initiated on March 13, 1979 in response to a worker petition received on March 8, 1979 which was filed on behalf of workers and former workers producing men's, women's and children's pajamas and robes at Wilker Brothers Company, Incorporated, McKenzie, Tennessee. The investigation revealed that the plant produces primarily men's and boys' pajamas and robes. In the following determinations, without regard to whether any of the other criteria have been met, for workers producing men's and boys' robes, 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.

Production of men's and boys' robes increased in 1977 compared to 1976 and in 1978 compared to 1977.

The average number of production workers in the robe department increased in 1978 compared to 1977. Average quarterly employment increased in every quarter when compared with the same quarter of the previous year from the second quarter of 1977 through the fourth quarter of 1978.

Temporary layoffs in February 1979 were due to the restructuring of the plant for additional cutting operations. The Robe Department's employment in March 1979, when all workers were recalled, increased compared to March 1978.

For workers producing men's and boys' pajamas, all of the criteria have been met.

U.S. imports of men's and boys' pajamas and other nightwear increased absolutely in 1978 compared to 1977.

Company imports of men's and boys' pajamas increased in 1978 compared to 1977 and in the first quarter of 1979 compared to the same period 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 men's and boys' pajamas produced at Wilker Brothers Company, Incorporated, McKenzie, Tennessee 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 Wilker Brothers Company, Incorporated, McKenzie, Tennessee who were engaged in employment related to the production of men's and boys' pajamas and who became totally or partially separated from employment on or after December 1, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of May 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79—17386 Filed 6–4–79; 8:45 am]

BILLING CODE: 4510-28-M

[TA-W-5141]

Xenko, Inc., Xenko Truck Mine, Fayettee County, W. Va.; Negative Determination Regarding Eligibility to apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of investigations regarding certifications of eligibility to apply for worker adjustment assistance.

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 was initiated on April 5, 1979 in response to a worker petition received on April 2, 1979 which was filed by the United Mine Workers of America on behalf of workers and former workers mining coal at Xenko Truck Mine of Xenko, Incorporated, Fayette County, West Virginia. The investigation revealed that Xenko, Incorporated operated Mine No. 1 from April 1978 through March 1979. Xenko has been operating Mine No. 2 since April 1979. In the following determination, at least one of the criteria 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.

Employment declines which took place at Xenko Truck Mine were the result of the decision by Xenko, Incorporated to discontinue mining at one location and initiate operations at a nearby site.

Xenko, Incorporated operated its No. 1 mine from April 1978 through March 1979. Workers at this site were laid off when the No. 1 mine was shut down due to the fact that the miners ran into rock and were required to begin mining at another location. Xenko started mining at a new site in April 1979. The company expects to rehire miners to work at this No. 2 mine once the new mine reaches full operating capacity.

Conclusion

After careful review, I determine that all workers of Xenko Truck Mine, Xenko, Incorporated, Fayette County, West Virginia 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 May 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79–17387 Filed 6–4–79; 8:45 am]

BILLING CODE 4510-28-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 15, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 15, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 29th day of May 1979.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Brockton Dress Mfg. Co., Inc. (I.L.G.W.U.)	Brockton, Mass	5/22/79	5/17/79	TA-W-5,468	Contract sewing for ladies' dresses and sportswear.
C & P Coal Co., Inc. (workers)	Wharncliffe, W. Va.	5/21/79	5/16/79	TA-W-5,469	Mining of coal.
Carbon Fuel Co., Mine #31 (workers)	Winifrede, W. Va	5/21/79	5/17/79	TA-W-5,470	Mining of coal.
Carbon Fuel Co., Mine #34 (workers)	Winifrede, W. Va	5/21/79	5/17/79	TA-W-5,471	Mining of coal.
Carbon Fuel Co., Mine #34a (workers)	Winifrede, W. Va	5/21/79	5/17/79	TA-W-5,472	Mining of coal.
Carbon Fuel Co., Mine #43 (workers)	Winifrede, W. Va	5/21/79	5/17/79	TA-W-5,473	Mining of coal.
Carbon Fuel Co., Mine #6 (workers)	Winifrede, W. Va	5/21/79	5/17/79	TA-W-5,474	Mining of coal.
Carbon Fuel Co., Mine #50 (workers)	Winifrede, W. Va	5/21/79	5/17/79	TA-W-5,475	Mining of coal.
Carbon Fuel Co., Winifrede Cleaning Plant (workers).	Winifrede, W. Va	5/21/79	5/17/79	TA-W-5,476	Cleaning of coal.
Chrysler Corp., Missouri Truck Assembly Plant (UAW).	Fenton, Mo	5/22/79	5/16/79	TA-W-5,477	Vans and wagons.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Cornish Dress Mfg. Co., Inc. (I.L.G.W.U.)	Brockton, Mass	5/22/79	5/17/79	TA-W-5,478	Contract stiching of ladies' dresses and sportswear.
John Elliott Leather (company)	Newark, N.J	5/22/79	5/18/79	TA-W-5,479	Tanning and finishing leather.
A. Gross & Co. (O.C.A.W.I.U.)	Newark, N.J	5/22/79	5/16/79	TA-W-5,480	Fatty acids.
Metaltex, Inc. (company)	Bayonne, N.J	5/22/79	5/16/79	TA-W-5,481	Bathroom accessories and mirrors.
U.S. Gypsum Co., Mineral Fiber Division (workers).	South Plainfield, N.J	5/22/79	5/16/79	TA-W-5,482	Mineral wool insulation.
U.S. Stove Co., Wonder Metals Division (USWA).	Bakewell, Tenn	5/23/79	5/15/79	TA-W-5,483	Supplies steel parts for stoves produced in Chattanooga and South Pittsburgh.
Universal Shirt Co., Inc. (ACTWU)	Elizabeth, N.J	5/23/79	5/18/79	TA-W-5,484	Girls' and children's tops and shirts.
Westforth Manufacturing Company (company)	Williamsport, Pa	5/25/79	5/21/79	TA-W-5,485	Men's outerwear jackets.

[FR Doc. 79-17389 Filed 6-4-79; 8:45 am]

BILLING CODE 4510-28-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Architecture, Planning and Design Panel Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Architecture. Planning and Design Panel (Cultural Facilities Research Section) will be held June 21 and 22, 1979 from 9:00 a.m. to 5:30 p.m., at the Children's Museum, 800 Third St., NE., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for finanical assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of March 17, 1977, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and 9(B) of section 552 of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark,

Director, Office of Council and Panel Operations National Endowment for the Arts.

May 29, 1979.

[FR Doc. 79-17343 Filed 6-4-79; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL SCIENCE BOARD

Nominations for Membership June 1, 1979

The National Science Board (NSB) is the policymaking body of the National Science Foundation (NSF). The Board consists of 24 Members appointed by the President, by and with the advice and consent of the Senate, for six-year terms, and of the NSF Director *ex officio*:

Terms Expire May 10, 1980

Dr. Jewel Plummer Cobb, Dean and Professor of Biology, Douglass College, Rutgers—The State University of New Jersey

Dr. Norman Hackerman (Chairman, NSB), President, Rice University

Dr. W. N. Hubbard, Jr., President, The Upjohn Company, Kalamazoo, Michigan

Dr. Saunders Mac Lane, Max Mason Distinguished Service Professor of Mathematics, Department of Mathematics, University of Chicago

Dr. Grover E. Murray (Vice Chairman, NSB), University Professor, Texas Tech University and Texas Tech University School of Medicine

Dr. Donald B. Rice, Jr., President, The Rand Corporation, Santa Monica, California

Dr. L. Donald Shields, President, California State University at Fullerton

Dr. James H. Zumberge, President, Southern Methodist University

Terms Expires May 10, 1982

Dr. Raymond L. Bisplinghoff, Vice President for Research and Development, Tyco Laboratories, Inc., Exeter, New Hampshire

Dr. Lloyd M. Cooke, Corporate Director, Vice Chairman, Economic Development Council of New York City, Inc.

Mr. Herbert D. Doan (Member, NSB Executive Committee), Chairman, Doan Resources Corporation, Midland, Michigan

Dr. John R. Hogness, President, University of Washington

Dr. William F. Hueg, Jr., Professor of Agronomy and Deputy Vice President and Dean, Institute of Agriculture, Forestry, and Home Economics, University of Minnesota

Dr. Marian E. Koshland (Member, NSB Executive Committee), Professor of Bacteriology and Immunology, Department of Bacteriology and Immunology, University of California at Berkeley

Dr. Joseph M. Pettit, President, Georgia Institute of Technology

Dr. Alexander Rich, Sedgwick Professor of Biophysics, Department of Biology, Massachusetts Institute of Technology

Terms Expire May 10, 1984

Dr. Lewis M. Branscomb, Vice President and Chief Scientist, International Business Machines, Inc., Armonk, New York

Dr. Eugene H. Cota-Robles, Vice Chancellor and Professor of Biology, University of California at Santa Cruz

Dr. Ernestine Friedl, Professor of Anthropology, Department of Anthropology, Duke University

Dr. Michael Kasha, Director, Institute of Molecular Biophysics and Professor of Physical Chemistry, Florida State University

Dr. Walter E. Massey, Dean of the College and Professor of Physics, Brown University

Dr. David V. Ragone, Dean, College of Engineering, University of Michigan

Dr. Edwin E. Salpeter, J. G. White Professor Physical Sciences, Newman Laboratory of Nuclear Studies, Cornell University

Dr. Charles P. Slichter, Professor of Physics, Loomis Laboratory of Physics, University of Illinois at Urbana-Champaign

Member Ex Officio

Dr. Richard C. Atkinson (Chairman NSB Executive Committee), Director, National Science Foundation

Section 4(c) of the National Science Foundation Act of 1950, as amended, states that: The persons nominated for appointment as members of the Board (1) shall be eminent in the fields of the basic, medical, or social sciences, engineering, agriculture, education, research management, or public affairs; (2) shall be selected solely on the basis

of established records of distinguished service; and (3) shall be so selected as to provide representation of the views of scientific leaders in all areas of the Nation.

The terms of eight Members of the National Science Board will expire on May 10, 1980. All Members of the 1980 class are eligibile for reappointment except Dr. Norman Hackerman and Dr. Grover E. Murray who have been Members of the Board for two six-year terms. Section 4(d) of the Act states that: Any person, other than the Director, who has been a member of the Board for twelve consecutive years shall thereafter be ineligible for appointment during the two-year period following the expiration of such twelfth year.

The Board and the Director solicit and evaluate nominations for submission to the President. Nominations accompanied by biographical information may be forwarded to the Chairman, National Science Board, Washington, D.C. 20550, no later than August 15, 1979.

Any questions should be directed to Miss Vernice Anderson, Executive Secretary, National Science Board (202/632-5840).

Norman Hackerman,

Chairman, National Science Board.

[FR Doc. 79-17327 Filed 6-4-79; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the Advisory Committee on Reactor Safeguards will hold a meeting on June 14-16, 1979, in Room 1046, 1717 H Street, NW., Washington, D.C. Notice of this meeting was published on May 24, 1979 (44 FR 30177).

The agenda for the subject meeting will be as follows:

Thursday, June 14, 1979

8:30 A.M.-11:30 A.M.: Executive Session (Open/Closed)—The Committee will hear and discuss the report of the ACRS Chairman regarding miscellaneous matters relating to ACRS activities. A portion of this session will be closed to discuss classified information related to the operation of nuclear powered naval ships.

The Committee will hear and discuss the report of its Subcommittees on the status of the Three Mile Island Nuclear Station and the implications regarding nuclear power plant design of the Three Mile Island Nuclear Station Unit 2 Accident which occurred on March 28, 1979. A portion of this session will be closed as required to discuss Proprietary Information related to this matter.

11:30 A.M.-1:00 P.M.: Meeting with NRC Staff (Open)—The Committee will meet with members of the NRC Staff to hear reports on the status of the Three Mile Island Nuclear Station Unit 2 and the NRC Staff evaluation of industry replies to I&E Bulletins 79-05, 79-05A, 79-05B, 79-06, 79-06A, 79-06B, and 79-08, NRC orders to the operators of Babcock and Wilcox nuclear plants, and NRC Staff action in response to ACRS recommendations regarding the March 28, 1979 accident at the Three Mile Island Nuclear Station Unit 2 (TMI-2).

2:00 P.M.-2:30 P.M.: Executive Session (Open)—The Committee will consider items to be discussed during its meeting with the NRC Commissioners including ACRS Interim Reports No. 2 and No. 3 regarding implications of the March 28, 1979 accident at TMI-2, use of quantitative risk assessment as a regulatory basis, and the need for ACRS review of proposed regulations regarding transportation of spent nuclear fuel.

2:30 P.M.-3:30 P.M.: Meeting with NRC Commissioners (Open) (Room 1130)—The Committee will meet with the NRC Commissioners to discuss items noted above.

3:30 P.M.-4:00 P.M.: Executive Session (Open)—The Committee will hear and discuss the report of its Subcommittee on Operating Reactors and consultants who may be present regarding the request for an increase in power level for the Millstone Nuclear Power Station Unit 2.

Portions of this session will be closed if necessary to discuss Proprietary Information related to this matter.

4:00 P.M.—5:30 P.M.: Millstone Nuclear Power Station Unit 2 (Open)—The Committee will hear and discuss presentations by members of the NRC Staff and the applicant regarding the request for an increase in power for the Millstone Nuclear Power Station, Unit 2.

Portions of this session will be closed if required to discuss Proprietary Information related to this matter.

5:30 P.M.-6:30 P.M.: Executive Session (Open)—The Committee will hear and discuss reports of its Subcommittees on matter related to nuclear power plant safety including proposed revisions to NRC Regulatory Guides, use of probabilistic assessment as a regulatory requirement and return to operation of the Fort St. Vrain Nuclear Station.

Friday, June 15, 1979

8:30 A.M.-11:00 A.M.: Meeting with Metropolitan Edison Company (Open)—The Committee will hear presentations by and hold discussions with representatives of the Metropolitan Edison Company regarding the accident which occurred at TMI-2 on March 28, 1979, activities following the accident, and the current status of the plant. Portions of this session will be closed as required to discuss Proprietary Information related to this matter.

11:00 A.M.-1:00 P.M.: Meeting with Babcock and Wilcox Company (Open)—The Committee will hear presentations by and hold discussions with representatives of the Babcock and Wilcox Company regarding NRC-I&E Bulletins No. 79-05 and 79-05A, 79-05B; NRC orders to operating nuclear stations which make use of Babcock and Wilcox nuclear steam supply systems; and ACRS recommendations resulting from the March 28, 1979 accident which occurred at TMI-2.

Portions of this session will be closed as required to discuss Proprietary Information related to this matter.

2:00 P.M.-5:30 P.M.: Meeting with NRC Staff (Open)—The Committee will hear presentations by and hold discussions with members of the NRC Staff regarding recent operating experience and licensing actions including a failure of the condenser steam dump control valves to close following a load rejection at the Beaver Valley Nuclear Plant Unit No. 1, replacement of reactor pressure vessel nozzles in the Duane Arnold Nuclear Plant, and cracking in the feedwater piping at the D.C. Cook Nuclear Station.

The Committee will also hear a brief report from the NRC Staff regarding inadequacies in the design of the piping of several nuclear plants related to their ability to withstand seismic disturbances.

The NRC Staff will also report to the Committee on NUREG-0531 "Investigation and Evaluation of Stress Corrosion Cracking in Piping of Light Water Reactor Plants" dated February 1979, and NUREG-0396, "A Modified Basis for the Development of State and Local Government Radiological Response Plans In Support of Light Water Nuclear Power Plants."

The future schedule for ACRS activities will also be discussed.

5:30 P.M.-6:30 P.M. Executive Session (Open)— Discuss proposed ACRS comments and recommendations regarding TMI-2; implications of the accident at TMI-2 on the design of nuclear facilities, and the proposed

power level increase for the Millstone Point Nuclear Power Station Unit 2.

Saturday, June 16, 1979

8:30 A.M.–4:00 P.M.: Executive Session (Open)—The Committee will discuss proposed ACRS comments and recommendations regarding TMI–2; the implications of the accident which occurred at TMI–2 on March 28, 1979; and the requested power level increase for the Millstone Nuclear Power Station Unit 2.

The Committee will discuss proposed ACRS reports to NRC regarding the request for a Construction Permit for the Palo Verde Nuclear Generating Station Units 4 and 5, and an Operating License for the Sequoyah Nuclear Plant Units 1 and 2.

The Committee will discuss proposed ACRS comments/positions regarding use of stainless steel fuel element cladding, stress corrosion cracking in nuclear power plant piping and a modified basis for development of radiological emergency response plans in support of light-water nuclear power plants.

The Committee will continue discussion of other items considered during this meeting including regulatory and other deficiencies identified as a result of the March 28, 1979 accident at TMI–2.

Portions of this session will be closed as necessary to discuss Proprietary Information, provisions for physical security of the facilities involved, classified Information and matters involved in an adjudicatory proceeding.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 4, 1978 (44 FR 45926). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by a telephone call to the ACRS Executive Director (R. F. Fraley) prior to the meeting.

I have determined in accordance with Subsection 10(d) P.L. 92–463 that it is necessary to close portions of this meeting as noted above to protect Proprietary Information (5 U.S.C. 552 b(c)(4)), to preserve the confidentiality of classified information and the arrangements for physical protection of the Palo Verde, Sequoyah and Millstone nuclear plants (5 U.S.C. 552b(c)(1)) and to permit discussion of matters involved in an adjudicatory proceeding (5 U.S.C. 552 b(c)(10)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley (telephone 202/634–1371), between 8:15 A.M. and 5:00 P.M. EDT.

Dated: May 31, 1979.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 79–17333 Filed 6–4–79; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–261]

Carolina Power & Light Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 38 to Facility Operating License No. DPR–23, to Carolina Power and Light Company (the licensee), which revised Technical Specifications for operation of the H. B. Robinson Steam Electric Plant Unit No. 2 (the facility) located in Darlington County, near Hartsville, South Carolina. The amendment is effective as of the date of its issuance.

The amendment deletes pressurizer level as an input to safety injection actuation, and requires actuation of safety injection based on two out of three channels of low pressurizer pressure.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the licensee's submittal dated May 18, 1979, (2) Amendment No. 38 to License No. DPR–23, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 24th day of May, 1979.

For the Nuclear Regulatory Commission.

A. Schwencer,

Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc. 79–17337 Filed 6–4–79; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–261]

Carolina Power & Light Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 37 to Facility Operating License No. DPR–23, issued to Carolina Power and Light Company, which revised Technical Specifications for operation of the H. B. Robinson Steam Electric Plant, Unit No. 2 (the facility) located in Darlington County, South Carolina. The amendment is effective as of its date of issuance.

The amendment incorporates Commission requested changes regarding the qualifications of the Environmental and Radiation Control Supervisor.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice

of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated October 7, 1977, (2) Amendment No. 37 to License No. DPR-23, and (3) the Commission's letter dated April 30, 1979. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 30th day of April 1979.

For the Nuclear Regulatory Commission.

A. Schwencer,

Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc. 79-17338 Filed 6-4-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. STN 50-568 and STN 50-569]

New England Power Co., et al.; Availability of Draft Environmental Statement for NEP-1 and NEP-2

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that a Draft Environmental Statement (NUREG-0529) has been prepared by the Commission's Office of Nuclear Reactor Regulation related to the proposed construction of NEP-1 and NEP-2 in Washington County, Rhode Island. The Draft Environmental Statement for NEP-1 and NEP-2 is available for inspection by the public in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C., the local public document rooms at Cross Mill Public Library, Old Post Road, Charlestown, Rhode Island 02831 and the University of Rhode Island, University Library, Government Publications Office, Kingston, Rhode Island 02881. The Draft Statement is also being made available at the State Clearinghouse, Rhode Island Statewide Planning Program, Department of Administration, 265 Melrose Street, Providence, Rhode Island 02907. Requests for copies of the Draft Environmental Statement should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C., 20555, Attention: Director, Division of Technical Information and Document Control.

The Applicant's Environmental Report, as supplemented, submitted by the New England Power Company, is also available for public inspection at the above-designated locations. Notice of availability of the Applicant's Environmental Report was published in the **Federal Register** on October 12, 1976 (41 FR 44763).

Pursuant to 10 CFR Part 51, interested persons may submit comments on the Draft Environmental Statement for the Commission's consideration. Federal, State and specified local agencies are being provided with copies of the Draft Environmental Statement. Comments by Federal, State, and local officials, or other persons received by the Commission will be made available for public inspection at the Commission's Public Document Room in Washington, D.C. and the local public document rooms at the locations given above. Upon consideration of comments submitted with respect to the draft environmental statement, the Commission's staff will prepare a final environmental statement, the availability of which will be published in the **Federal Register.**

Comments on the Draft Environmental Statement from interested persons should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Site Safety and Environmental Analysis. Comments are due by August 7, 1979.

Dated at Bethesda, Maryland, this 31st day of May 1979.

For the Nuclear Regulatory Commission.

Ronald L. Ballard,

Chief, Environmental Projects Branch 1, Division of Site Safety and Environmental Analysis.

[FR Doc. 79-17336 Filed 6-4-79; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Delay in Publication of Semiannual Agenda

May 31, 1979.

AGENCY: Office of Management and Budget.

ACTION: Delay in publication of semiannual agenda.

SUMMARY: The publication of OMB's semiannual agenda of upcoming actions on OMB directives was to be published in the **Federal Register** June 1. Delays have caused this date to slip to June 15.

FOR FURTHER INFORMATION CONTACT: Mr. David R. Leuthold, Budget and Management Officer, Room 5208, New Executive Office Building, Washington, D.C. 20503 (202) 395-7250.

Brenda A. Mayberry,

Acting Budget and Management Officer.

[FR Doc. 79-17435 Filed 6-4-79; 8:45 am]

BILLING CODE 3110-01-M

THE PRESIDENT'S COMMISSION ON COAL

Seminar on Grievance and Arbitration Procedures in the Coal Industry

The President's Commission on Coal will conduct a seminar on grievance and arbitration procedures in the coal industry on June 20, 1979, from 9:30 a.m. until 4:30 p.m. in room N4437 of the Department of Labor Building, 200 Constitution Avenue, N.W., Washington, D.C.

The Commission was created by executive order to conduct a comprehensive review of the state of the coal industry in the United States considering, among other issues, "collective bargaining, grievance procedures, and such other aspects of labor-management relations as the Commission deems appropriate."

After presentations by invited experts and representatives of the coal industry labor and management, there will be a round table discussion with Commission members and invited participants.

The seminar will not be a formal hearing, but will be open to the public. Interested persons may file written statements with the Commission on the topic under discussion. These statements must be filed no later than July 19, 1979, to be included in the record of the proceedings.

Persons wishing more information, or who wish to submit a statement with the Commission on grievance and arbitration procedures in the coal industry, should contact Mr. Allen

Wampler, the President's Commission on Coal, 600 E Street, N.W., Suite 500, Washington, D.C. 20004, telephone 202/376-2001.

Dated: May 31, 1979.

Michael S. Koleda,

Executive Director, The President's Commission on Coal.

[FR Doc. 79-17332 Filed 6-4-79; 8:45 am]

BILLING CODE 4510-23-M

INTERSTATE COMMERCE COMMISSION

Fourth Section Application for Relief

May 31, 1979.

This application for long-and-short-haul relief has been filed with the I.C.C.

Protests are due at the I.C.C. on or before June 20, 1979.

FSA No. 43702, Karlander (Australia) Pty. Limited's No. 4, intermodal rates on general commodities in containers, from ports in Australia, New Guinea, and the Solomon Islands, to rail carrier's terminal at Boston, Mass., by way of U.S. Pacific Coast ports, effective June 24, 1979, in its Tariff No. 20, ICC KRPU 300. Grounds for relief—water competition.

By the Commission.

H. G. Homme, Jr.,

Secretary.

[FR Doc. 79-17358 Filed 6-4-79; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. MC-43]

Lease and Interchange of Vehicles

On April 12, 1979, Turner Bros. Trucking Co., Inc., filed an application for waiver of our rules governing the lease and interchange of vehicles. Specifically, Turner Bros. seeks relief from: (1) 49 CFR 1057.12(g), which generally requires that regulated motor carrier-lessees compensate their lessors (owner-operators) within 15 days after submission of delivery documents and other relevant paperwork; and (2) 49 CFR 1057.12(h), which provides that, when a regulated motor carrier-lessee compensates a lessor on a percentage of gross revenue basis, it must give a copy of the freight bill to the lessor.

These Two rules, from which Turner Bros. seeks relief, were recently promulgated in Ex Parte No. MC-43 (Sub-No. 7), which became effective on March 26, 1979. This is the first request by a motor carrier for an individual waiver from the new leasing rules. The waiver application is not pending before the Motor Carrier Leasing Board. Since this is the first request for a waiver of the new rules, the Motor Carrier Leasing Board believes that it would be appropriate for the Commission to rule on the waiver application. Consequently, the staff leasing board is certifying the application to the entire Commission for consideration. See 49 CFR 1011.6.

Pending the outcome of the Commission's decision on the waiver application, new rules 49 CFR 1057.12(g) and 1057.12(h) will be stayed administratively with respect to Turner Bros.

It is ordered: Turner Bros. Trucking Co., Inc., does not have to comply with new rules 49 CFR 1057.12 (g) and 1057.12(h) pending resolution by the Commission of its application for waiver. This temporary waiver applies to Turner Bros. only.

Decided May 29, 1979.

By the Commission, Chairman O'Neal.

H. G. Homme, Jr.,

Secretary.

[FR Doc. 79-17357 Filed 6-4-79; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 347]

Western Coal Investigation—Guidelines for Railroad Rate Structure; Availability of Detailed Outline for Draft Environmental Impact Statement

AGENCY: Interstate Commerce Commission, Office of Policy and Analysis, Energy and Environment Branch.

ACTION: Notice of Availability.

SUMMARY: The Interstate Commerce Commission has initiated work to prepare an environmental impact statement on Ex Parte No. 347—Western Coal Investigation—Guidelines for Railroad Rate Structure. To facilitate awareness of this activity and encourage maximum public participation and input, the Interstate Commerce Commission is making available copies of the proposed outline for the draft environmental impact statement.

ADDRESS: Copies of the outline may be obtained from the Energy and Environment Branch, Office of Policy and Analysis, Interstate Commerce Commission, 12th & Constitution Avenue, NW, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Glen D. Bottoms, Energy and Environment Branch, 202-275-7658.

SUPPLEMENTARY INFORMATION: The proposed detailed outline will serve as the basis for the draft environmental impact statement (EIS). Please note that this outline is subject to charge as the draft EIS is developed.

The availability of the Draft EIS will be announced in the **Federal Register.** Comments on the Draft EIS will be received for at least 45 days after the notice of the release of the statement. It is also contemplated that a public hearing will be held to consider the Draft EIS. The time and place of this hearing will also be announced in the **Federal Register.**

H. G. Homme, Jr.,

Secretary.

[FR Doc. 79-17359 Filed 6-4-79; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 18]

Petitions, Applications, Finance Matters (Including Temporary Authorities), Alternate Route Deviations, and Intrastate Applications

Dated: May 23, 1979.

Petitions for Modification, Interpretation or Reinstatement of Operating Rights Authority

Notice

The following petitions seek modification or interpretation of existing operating rights authority, or reinstatement of terminated operating rights authority.

All pleadings and documents must clearly specify the suffic (e.g. M1 F, M2 F) numbers where the docket is so identified in this notice.

An original and one copy of protests to the granting of the requested authority must be filed with the Commission within 30 days after the date of this notice. Such protests shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) [1] and shall include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon petitioner's representative, or petitioner if no representative is named.

MC 42289 (Sub-5M1F) (Notice of filing of petition to modify certificate), filed March 9, 1979. Petitioner: LOMBARD BROTHERS, INCORPORATED, 233 Mill Street, Waterbury, CT 06706.

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

Representative: Hugh M. Joseloff, 80 State Street, Hartford, CT 06103. Petitioner holds motor *common carrier* certificate in MC–42289 Sub 5, issued October 10, 1961 authorizing transportation, over irregular routes, of *general commodities,* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), between points in Bergen, Essex, Hudson, Morris, Passaic, Union, Middlesex, Monmouth, Hunterdon, and Somerset Counties, NJ, on the one hand, and, on the other, points in PA in Berks, Bucks, Chester, Dauphin, Delaware, Lancaster, Lebanon, Lehigh, Montgomery, Northampton, Philadelphia, and Schuykill Counties, and those portions of Columbia, Montour, and Northumberland Counties lying on the south bank and south of the Susquehanna River, all within 130 miles of Belleville, NJ. Restriction: No local service is authorized on shipments moving between New York, NY, and points in the specified NJ Counties, on the one hand, and, on the other, points in all specified PA Counties, except those in Bucks, Chester, Delaware, Montgomery, Northampton, and Philadelphia Counties.

By the instant petition, petitioner seeks to modify the above authority by removing the restriction.

MC 108859 (M2F) (notice of filing of petition to modify certificate), filed March 1, 1979. Petitioner: CLAIRMONT TRANSFER CO., 1803 Seventh Avenue, North Escanaba, MI 49820. Representative: John L. Bruemmer, 121 West Doty Street, Madison, WI 53703. Petitioner holds a motor *common carrier* certificate in MC–108859 issued April 4, 1969, which in part reads: *General commodities (usual exceptions), between St. Ignace, MI and Cheboygan, MI, serving no intermediate points: From St. Ignace over Interstate Hwy 75 to junction U.S. Hwy 23, thence over U.S. Hwy 23 to Cheboygan, and return over the same route. Restriction: The operations granted above are subject to the following conditions: (1) Said operations are restricted to the transportation of traffic having a prior or subsequent movement by carrier from or to points which it is authorized to serve in the Upper Peninsula of Michigan west of Interstate Hwy 75 and in Wisconsin north of U.S. Hwy 18; (2) Said operations are restricted against the transportation of traffic interlined in the Upper Peninsula of Michigan and said area of Wisconsin which did not originate at, or which is not destined to, points in the Upper Peninsula of Michigan and said area of Wisconsin; (3) Said operations are restricted against the transportation of traffic originating at or destined to Cheboygan, MI. By this petition, petitioner seeks to delete the third restriction. By prior petition for modification, published in the* **Federal Register** on October 5, 1978 petitioner seeks to remove the second restriction and to modify restriction (1) to read as follows: Said operations are restricted to the transportation of traffic having a prior or subsequent movement by carrier from or to points which it is authorized to serve, except those in the Upper Peninsula of Michigan on and East of Interstate Hwy 75.

MC 108937 (Sub-39M1F) (notice of filing of petition to remove restriction), filed January 18, 1979. Petitioner: MURPHY MOTOR FREIGHT LINES, INC., 2323 Terminal Road, St. Paul, MN 55113. Representative: Jerry E. Hess (same address as applicant). Petitioner holds motor *common carrier* certificate in No. MC 108937 Sub 39, issued November 1, 1974, authorizing transportation, over regular routes, of *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Milwaukee, WI, and St. Paul, MN, serving no intermediate points, from Milwaukee over Interstate Hwy 94 to U.S. Hwy 12 at or near the MN–WI State line, and then over U.S. Hwy 12 to St. Paul, and return over the same route, restricted against the transportation of traffic originating at, destined to, or interlined at Milwaukee, WI, and points in its commercial zone as defined by the Commission on the one hand, and, on the other, originating at, destined to, or interlined at St. Paul, MN, points in its commercial zone as defined by the Commission, Brooklyn Park, Burnsville, Eagon Township, Eden Prairie, Inver Grove Heights, Minnetonka, Plymouth, and Savage, MN. By the instant petition, petitioner seeks to remove the above restriction from its operating authority.

MC 112713 (Sub-226M1F), filed November 1, 1978 (notice of filing of petition to modify certificate). Applicant: YELLOW FREIGHT SYSTEM, INC., 10990 Roe Avenue, P.O. Box 7270, Shawnee Mission, KS 66207. Representative: Leonard R. Kofkin, 39 South LaSalle Street, Chicago, IL 60603. Petitioner holds motor *common carrier* Certificate in MC 112713 Sub 226 issued May 11, 1979, which authorizes, as pertinent, transportation, over irregular routes, of *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), between New Orleans, LA, and Montgomery, AL, serving no intermediate points, as an alternate route for operating convenience only in connection with carrier's authorized regular-route operations: from New Orleans over U.S. Hwy 90 to junction Interstate Hwy 10, then over Interstate Hwy 10 to junction Interstate Hwy 65, then over Interstate Hwy 65 to Montgomery, and return over the same route. By the instant petition, petition seeks to modify the authority to read as follows: *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 New Orleans, LA, and junction Interstate Hwy 10 and Interstate Hwy 65, serving no intermediate points, and serving junction Interstate Hwy 10 and Interstate Hwy 65, for joinder only, as an alternate route for operating convenience only, in connection with carrier's regular-route operations: from New Orleans, over U.S. Hwy 90 to junction Interstate Hwy 10, then over Interstate Hwy 10 to junction Interstate Hwy 65, and return over the same route, and (2) between junction Interstate Hwy 10 and Interstate Hwy 65 and Montgomery, AL, serving no intermediate points, and serving junction Interstate Hwy 10 and Interstate Hwy 65 for joinder only, as an alternate route for operating convenience only, in connection with carrier's authorized regular-route operations: from junction Interstate Hwy 10 and Interstate Hwy 65, over Interstate Hwy 65 to Montgomery, and return over the same route.

Note.—The purpose of this modification is to permit applicant to join existing authorities at a common point in Mobile, AL.

MC 116077 (Sub-125M1F) (notice of filing of petition to delete a restriction), filed May 15, 1979. Petitioner: DSI TRANSPORTS, INC., 4550 Post Oak Place Drive, P.O. Box 1505, Houston, TX 77001. Representative: James M. Doherty, P.O. Box 1945, Austin, TX 78767. Petitioner holds motor *common carrier* Certificate No. MC 116077 Sub 125, issued March 4, 1965 authorizing transportation, over irregular routes, of *Acids and chemicals* (except liquefied petroleum gases), in bulk, from Lake Charles, LA, and points within 5 miles thereof, to points in AL, AR, FL, GA, MS, OK, TN (except Kingsport), and TX,

restricted against the transportation of (1) paints, paint materials, and resins to Garland, TX, (2) new catalyst, in covered-hopper vehicles, to points in AR, OK and TX, (3) spent catalyst, in covered-hopper vehicles, to points in AR and OK, (4) soda ash, in hopper-type vehicles, to the plant site of Jefferson Chemical Company, Inc., at Port Neches, TX, (5) barite ore, in tank or hopper-type vehicles, to points in TX, and (6) nitric acid, to points in TX within 350 miles of Lake Charles, LA, and further restricted against tacking or joining the authority herein granted with any of its other authority for the purpose of performing a through service other than authorized herein. By the instant petition, petitioner seeks to delete restriction (6) from the above cited authority which prohibits the transportation to "nitric acid to points in TX within 350 miles of Lake Charles, LA".

MC 124078 (Sub-225M1) and (Sub-514M1) (notice of filing of petition to modify certificates), filed March 7, 1979. Petitioner: SCHWERMAN TRUCKING CO., 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. Petitioner holds motor *common carrier* certificates in MC 124078 Subs 225 and 514 issued March 21, 1978 and February 7, 1973, respectively, MC 124078 Sub 225 authorizes (in part), the transportation, over irregular routes, as pertinent, of *cement* from the plant site of the Medusa Cement Company, a Division of Medusa Corporation at or near Dixon, IL, to points in IN, IA, and WI. MC 124078 Sub 514 authorized, in part, the transportation, over irregular routes, as pertinent, of *cement mill waste* (except cement, lime, limestone, and limestone products, and by-products) and *stack dust* (except fly ash), in bulk, in tank vehicles, from the plant site of Medusa Cement Company, Division of Medusa Corporation, at or near Dixon, IL, to points in IA and WI. By the instant petition, petitioner seeks to modify the authorities by eliminating the plant site restriction at Dixon, IL.

MC 133478 (Sub-18M1F), (notice of filing of petition to modify permit), filed December 18, 1978. Petitioner: D G TRANSPORT, INC, 8565 SW Beaverton-Hilsdale Hwy., P.O. Box 25448, Portland, OR 97225. Representative: Nick I. Goyak, 555 Benjamin Franklin Plaza, One Southeast Columbia, Portland, OR 97258. Petitioner holds motor *contract carrier* permit MC 133478 Sub 18, issued December 6, 1976, authorizing the transportation, over irregular routes, as pertinent, of *building materials* (except commodities in bulk and cement), from points in OR and CA to points in and west of the States of WI, IA, MO, AR, and LA (except AK and HI), with no transportation for compensation on return except as otherwise authorized. By this instant petition, petitioner seeks to modify the authority by adding, as a contract shipper, Palmer G. Lewis Co., Inc., of Auburn, WA. (Hearing site: Portland, OR, or Seattle, WA)

MC 135678 (Sub-4 M1F) (notice of filing of petition to modify certificate), filed March 15, 1979. Petitioner: MIDWESTERN TRANSPORTATION, INC., 20 S.W. 10th, Oklahoma City, OK 73125. Representative: C. L. Phillips, Room 248—Classen Terrace Bldg., 1411 N. Classen, Oklahoma City, OK 73106. Petitioner holds motor *common carrier* certificate in MC–135678 Sub 4, issued July 4, 1978, authorizing the transportation of *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), between Oklahoma City, OK and Fort Smith, AR, serving no intermediate points and serving Okalahoma City, OK as a point of joinder only: From Oklahoma City over Interstate Hwy 40 to junction U.S. Hwy 64, then over U.S. Hwy 64 to Fort Smith, and return over the same route. By instant petition, petitioner seeks to modify this authority by removing the restriction, to read as follows: between Oklahoma City, OK, and Fort Smith, AR, serving no intermediate points: From Oklahoma City over Interstate Hwy 40 to junction U.S. Hwy 64, then over U.S. Hwy 64 to Fort Smith, and return over the same route. (Hearing site: Oklahoma City, OK)

MC 136828 (Sub-8M1F) (notice of filing of petition to modify certificate), filed March 1, 1979. Petitioner: COOK TRANSPORT, INC., 214 South Tenth St., Birmingham, AL 35233. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. Petitioner holds motor *common carrier* certificate in MC–136828 Sub 8, issued September 29, 1977, authorizing the transportation, over irregular routes, of *materials, equipment, machinery and supplies* used in the manufacturing, processing and distribution of iron and steel articles (except commodities in bulk), in tank and dump vehicles, from points in the United States (except AK and HI), to the plant site and warehouse facilities of American Cast Iron Pipe Company, at Birmingham, AL, with no transportation for compensation on return except as otherwise authorized. By this instant petition, petitioner seeks to modify the authority by (a) changing the restriction to read (except commodities in bulk, in tank and dump vehicles), and (b) eliminate the facilities of American Cast Iron Pipe Company.

Republications of Grants of Operating Rights Authority Prior to Certification

Notice

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the **Federal Register.**

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission within 30 days after the date of this **Federal Register** notice. Such pleading shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

MC 14138 (Sub-No. 7F)(2nd republication), filed April 3, 1978, published in the **Federal Register** issues of July 20, 1978, and September 21, 1978, and republished this issue. Applicant: HEAVY TRANSPORT, INC., 6142 Paramount Boulevard, Long Beach CA 90805. Representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 1240, Arlington, VA 22210. A Decision of the Commission, Review Board Number 2, decided March 29, 1979, and served May 8, 1979, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes in the transportation of (A)(1) *gypsum board* (except commodities in bulk), from the facilities of The Celotex Corporation, at or near Hamlin, TX, to points in California, and (2) *materials and supplies* used in the manufacture, distribution, and installation of gypsum board, from points in California, to the above named origin facilities, restricted in both (1) and (2) above to the transportation of traffic originating at the named origins and destined to the named destinations, and (B)(1) *commodities which be reason of size or*

weight require the use of special equipment, (2)(a) *construction, mining, and logging materials, equipment, and supplies,* (b) *tanks,* and (c) *supplies* used in the erection or distribution of tanks; and (3) *equipment, materials, and supplies* used in the construction and maintenance of facilities for the discovery, development, production, or refining of water, natural gas, petroleum and petroleum products, between points in California (except points in Del Norte, Humboldt, Lake, Mendocino, Modoc, San Benito, Siskiyou, and Trinity Counties), that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate applicant's actual grant of authority.

Motor Carrier, Broker, Water Carrier and Freight Forwarder Operating Rights Applications

Notice

The following applications are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the **Federal Register.** Failure to seasonably file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with Section 247(e)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected.

MC 113678 (Sub-805F), filed April 6, 1979. Applicant: CURTIS, INC., 4810 Pontiac St., Commerce City, CO 80022, Representative: Roger M. Shaner (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transportating *frozen foods,* from points in CA, to points in AR, CO, IL, IN, KS, MO, NE, NM, OK, and TX. (Hearing site: Denver, CO, or San Francisco, CA)

Note.—The purpose of this filing is to eliminate those gateways at points in ID.

Motor Carrier Transfer Proceedings

Application filed for temporary authority under Section 11349 in connection with transfer application under Section 10926 and Transfer Rules, 49 C.F.R. Part 1132.

MC–FC 78148. By application filed May 18, 1979, D.D.S. TRANSPORT INC., P.O. Box 15544, South Salt Lake City, UT 84115, seeks temporary authority to transfer the operating rights of WESTERN PROVISIONERS, INC., P.O. Box 15861, Salt Lake City, UT 84115, under section 210a(b). The transfer to D.S.S. TRANSPORT INC., of the operating rights of WESTERN PROVISIONERS, INC., is presently pending.

MC–FC 78150. By application filed May 8, 1979, ACADIAN CROWN INC., P.O. Box 976, Monotick, Ontario, CD KOA 2NO, seeks temporary authority to transfer the operating rights of WILLIAM CHILDS LIMITED, 1774 Athens Avenue, Ottawa, Ontario, CD K1T 1L3, under section 210a(b). The transfer to ACADIAN CROWN INC., of the operating rights of WILLIAM CHILDS LIMITED, is presently pending.

MC–FC 78151. By application filed May 8, 1979, NEWARK BOXBOARD CO., 57 Freeman Street, Newark, NJ 97105, seeks temporary authority to transfer the operating rights of DOMENICK LIGUORI TRUCKING, INC., 515–517 Jefferson Street, Hoboken, NJ 07030, under section 210a(b). The transfer to NEWARK BOXBOARD CO., of the operating rights of DOMENICK LIGUORI TRUCKING, INC., is presently pending.

MC–FC 78155. By application filed April 9, 1979, CAMPBELL GRAIN CORPORATION, Box 94, Humeston, IA 50123, seeks temporary authority to transfer the operating rights of GERALD E. CARPENTER, an individual R. R. #2, Box 241, Maxwell, IA 50161, under section 210a(b). The transfer to CAMPBELL GRAIN CORPORATION, of the operating rights of GERALD E. CARPENTER, an individual is presently pending.

Interstate Commerce Commission, Washington, D.C.

Motor Carrier Board Transfer Proceedings

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under Section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include request for oral hearing, must be filed with the Commission within 30-days after the date of this publication. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

MC–FC–78098, filed April 12, 1979. Transferee: DUANE McFARLAND, Oakland, MN 56076. Transferor: GEORGE McFARLAND, SR., Oakland, MN 56076. Representative: John P. Rhodes, P.O. Box 5000, Waterloo, IA 50704, and Duane McFarland, P.O. Box 1006, Austin, MN 55912. Authority sought for the purchase by transferee of the operating rights of transferor as set forth in Certificates Nos. MC–144293 and MC–144293 (Sub-No. 1), issued June 28, 1978, and February 26, 1979, as follows: *Malt beverages,* from Milwaukee, WI, to the facilities of the W. H. Austin Distributing Co., Inc., and of the Crowley Beverage Co., Inc., at Austin, MN, restricted to the transportation of traffic originating at the named origin and destined to the named destinations.

Meat, meat products, meat by-products, articles distributed by meat packing plants, and foodstuffs (except hides and commodities in bulk), from the plant site of Geo. A. Hormel & Co., at Austin, MN, to Chicago, IL, Fargo, ND, and points in WI, restricted to the transportation of shipments originating at the named origin and destined to the named points. By order served February 8, 1979, transferor was granted authority in MC–144293 (Sub-No. 4), to transport *meats, meat products, and meat byproducts and articles distributed by meat-packing houses*, as defined in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Wilson Foods Corporation at Albert Lea, MN, to points in IL, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. Transferor presently holds no authority from this Commission. Application was filed for temporary authority under 49 U.S.C. § 11349.

MC–FC–78113, filed April 16, 1979. Transferee: SHANNON YOUNG TRUCKING COMPANY, a corporation d.b.a. OIL FIELD TRUCKING SERVICE, P.O. Box 5707, Abilene, TX 79605. Transferor: DEHLINGER CORPORATION, d.b.a. OIL FIELD TRUCKING SERVICE, P.O. Box 5707, Abilene, TX 79605. Representative: Mike Cotten, P.O. Box 1148, Austin, TX 78767. Authority sought for the purchase by transferee of the operating rights of transferor as set forth in Certificates of Registration Number MC 56623 (Sub-1), issued October 21, 1975, as follows: *Livestock, livestock feedstuffs, farm machinery, grain, and timber* in its natural state, from Houston to all points in TX and from all points in TX to Houston. *Oilfield equipment and pipe*, when moving as oilfield equipment; *tranching machines, tractors, drag lines, back fillers, caterpillars, road building machinery, batch bins, ditching machinery, bull dozers, heavy mixers, finishing machinery, power hoists, cranes, heavy machinery, pile driving rigs, paving machines and equipment, graders, construction equipment, boilers, scrapers, irrigation and drainage machinery, road maintainers, electric motors, pumps, transformers, circuit breakers, turbines, bridge construction equipment, shovels, planes, lathes, air compressors, rotaries, prefabricated houses; bulk station storage tanks, heavy tanks, pump machinery, erection machinery and equipment, refinery machinery and equipment, boats and prefabricated steel girders, threshing machines, sawmill machinery, telephone and telegraph poles, creosote and other pilings, heavy furnaces or ovens, pipe* (including iron, steel, concrete, composition or corrugated), *punches, presses, iron or steel girders, beams, columns, posts, channels and trusses, generators and dynamos, iron or steel castings, sheets, and plates, industrial hammers, industrial machinery, including laundry, ice making, air conditioning, baker, bottling, gin, crushing, dredging, mill, brewery, textile, water plant and wire covering, twisting or laving, derricks, hoists, steam or internal combustion engines, rollers, power shovels, safes, vaults, bank doors, and gasoline, fuel oil, and other storage tanks*, when said commodities are not moving as oilfield equipment, as follows: transporting the above named commodities together with its attachments and its detached parts thereof between incorporated cities, towns, and villages only when the commodity to be transported weighs 4,000 pounds or more in a single peice or when such commodity, because of physical characteristics other than weight, requires the use of special devices, facilities of equipment for the safe and proper loading or unloading thereof, between points in TX. Transferee holds no authority from this commission. Application has not been filed for temporary authority under 49 U.S.C. § 11349.

Motor Carrier Alternate Route Deviations; Notice

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Property (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of this **Federal Register** notice.

Each applicant states that there will be no significant effect on either the quality of the human environment or energy policy and conservation

Motor Carriers of Property

MC 29555 (Deviation 30), BRIGGS TRANSPORTATION CO., North 400, Griggs-Midway Building, St. Paul, MN 55104, filed April 11, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Galesburg, IL over Interstate Hwy 74 to Indianapolis, IN and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Galesburg, IL over US Hwy 34 to Chicago, IL, then over US Hwy 41 to junction US Hwy 52, then over US Hwy 52 to junction Indiana Hwy 43, then over Indiana Hwy 43, to junction Indiana Hwy 32, then over Indiana Hwy 32 to junction Interstate Hwy 65, then over Interstate Hwy 65 to Indianapolis, IN, and return over the same route.

MC 29910 (Deviation 41), ARKANSAS-BEST FREIGHT SYSTEM, INC., P.O. Box 48, Fort Smith, AR 72902, filed April 12, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From El Dorado, AR over US Hwy 167 to junction US Hwy 79 near Fordyce, AR, then over US Hwy 79 to Memphis, TN and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From El Dorado, AR over US Hwy 82 to junction Arkansas Hwy 81 near Hamburg, AR, then over Arkansas Hwy 81 to junction US Hwy 79 near Pine Bluff, AR, then over US Hwy 79 to junction Arkansas Hwy 11 near Stuttgart, AR, then over Arkansas Hwy 11 to junction US Hwy 70, near Hazen, AR, then over US Hwy 70 to Memphis, TN, and return over the same route.

MC 31389 (Deviation 11), McLEAN TRUCKING COMPANY, 1920 West First Street, Winston-Salem, NC 27104, filed April 2, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Greenwood, LA over Interstate Hwy 20 to junction US Hwy 271, then over US Hwy 271 to Tyler, TX, then over TX Hwy 31 to Athens, TX, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over pertinent service routes as follows: (1) From Shreveport, LA over US Hwy 79 to Carthage, TX, then over US Hwy 59 to Lufkin, TX, and (2) From Athens, TX over US Hwy 175 to Jacksonville, TX, then over US Hwy 69 to Lufkin, TX, and return over the same routes.

MC 42487 (Deviation 123), CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, P.O. Box 3301, Portland, OR 97208, filed April 20, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Kansas City, MO over US Hwy 69 to junction KS Hwy 26 near Crestline, KS, then over KS Hwy 26 to junction US Hwy 66, then over US Hwy 66 to junction OK Hwy 137 near Quapaw, OK, then over OK Hwy 137 to junction OK Hwy 10, then over OK Hwy 10 to junction Interstate Hwy 44, then over Interstate Hwy 44 to junction US Hwy 69 near Big Cabin, OK, then over US Hwy 69 to Atoka, OK and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Kansas City, MO over US Hwy 169 to junction KS Hwy 150, then over KS Hwy 150 to Olathe, KS, then over KS Hwy 7 to junction US Hwy 169, then over US Hwy 169 to Cherryvale, KS, then over US Hwy 160 to Independence, KS, then over US Hwy 75 via Bartlesville, OK to Tulsa, OK, then over unnumbered hwy (formerly portion US Hwy 75) via Sapulpa, OK to junction US Hwy 75, near Preston, OK, then over US Hwy 75 to Atoka, OK and return over the same route.

MC 69833 (Deviation 32) filed April 11, 1979. Applicant: ASSOCIATED TRUCK LINES, INC., 200 Monroe Avenue, NW, Grand Rapids, MI 49503. Applicant's Representative: Harry Pohlad, Vice President-Regulation, ASSOCIATED TRUCK LINES, INC., 200 Monroe Avenue, NW, Grand Rapids, MI 49503. Carrier proposes to operate as a *common carrier*, by motor vehicle, transporting: *General Commodities*, with usual exceptions, over a deviation route as follows: From Junction US Hwy 24 and Interstate Hwy 74 at Peoria, IL, then over Interstate Hwy 74 to junction Interstate Hwy 74 and US Hwy 52 at Indianapolis, IN, and return over the same route for operating convenience only. Carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Peoria, IL over US Hwy 24 to junction US Hwy 51, then over US Hwy 51 to junction IL Hwy 17, then over IL Hwy 17 to junction IL Hwy 23, then over IL Hwy 23 to junction US Hwy 6, then over US Hwy 6 to junction US Hwy 51, then over US Hwy 51 to junction Alternate US Hwy 30 at Rochelle, IL, the over Alternate US Hwy 30 and IL Hwy 64 to Elmhurst, IL, then over St. Charles Road to US Hwy 45; then over US Hwy 45 to junction Alternate US Hwy 30, then over Alternate US Hwy 30 to IL Hwy 42A, then over IL Hwy 42A to junction US Hwy 30, then over US Hwy 30 to junction US Hwy 41, then over US Hwy 41 to juncion US Hwy 52, then over US Hwy 52 to Indianapolis, IN and return over the same route.

MC 112713 (Deviation 58), YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, 10990 Roe Avenue, Shawnee Mission, KS 66207, filed March 29, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Hutchinson, KS over KS Hwy 61 to junction of US Hwy 54 then over US Hwy 54 to El Paso, TX; and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Hutchinson, KS over US Hwy 50 to Newton, KS, then over US Hwy 81 to junction US Hwy 177, then over US Hwy 177 to junction US Hwy 77, then over US Hwy 77 to junction OK Hwy 66 then over OK Hwy 66 to Edmond, OK, then over US Hwy 77 to Dallas, TX, then over US Hwy 80 to El paso, TX, and return over the same route.

MC 112713 (Deviation 60), YELLOW FREIGHT SYSTEM, INC., Box 7270, 10990 Roe Ave., Shawnee Mission, KS 66207, filed May 2, 1979. Carrier proposes to operate as a *Common carrier*, by motor vehicle, of *general commodities*, with exceptions, over a deviation route as follows: From Greenville, OH over US Hwy 36 to junction IN Hwy 67, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Greenville, OH over US Hwy 127 to junction OH Hwy 29, then over OH Hwy 29 to the OH–IN State line, then over IN Hwy 67 to Muncie, IN, then over IN Hwy 32 to Anderson, IN, then over IN Hwy 9 to junction US Hwy 36, then over US Hwy 36 to junction IN Hwy 67 and return over the same route.

Motor Carrier Intrastate Application(s) Notice

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 10931 (formerly Section 206(a)(6)) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's *General Rules of Practice* (49 CFR 1100.245), which provides, amont other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall *not* be addressed to or filed with the Interstate Commerce Commission.

California Docket A58814. Filed April 20, 1979. Applicant: WIPFF TRUCKING, INC., 216 Harris Court, South San Francisco, CA 94080. Representative: ANN M. POUGIALES, Loughran & Hegarty, 100 Bush St., 21st Floor, San Francisco, CA 94104. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: General commodities as follows: 1. Between all points and places in the San Francisco—East Bay Cartage Zone as described in Note A hereof. 2. Between all points and places on and within ten (10) statute miles of the following routes: (a) U.S. Highway 101 between San Rafael and San Jose, inclusive. (b) State Highway 17 between San Rafael and San Jose, inclusive. (c) Interstate Highway 280 between San Francisco and San Jose, inclusive. (d) State Highway 82 between San Francisco and San Jose, inclusive. (e) Interstate Highway 80 between San Francisco and Vallejo, inclusive. (f) State Highway 24 between Oakland and Walnut Creek, inclusive. (g) Interstate Highways 780 and 680 between Vallejo and San Jose, inclusive. (h) State Highway 4 between Pinole and junction with State Highway 160, inclusive. (i) State Highway 238 and Interstate Highway 580 between San Lorenzo and junction of Interstate Highway 680, inclusive. (j) Interstate Highway 580 between junction Interstate Highway 80 and junction State Highway 238, inclusive. In performing the service herein authorized, carrier may make use of any and all streets, roads, highways and bridges necessary or convenient for the performance of said service. Except that pursuant to the authority herein granted carrier shall not transport any shipments of: 1. Used household goods, personal effects and used office, store and institution furniture, fixtures and equipment not packed in salesman's hand sample cases, suitcases, overnight or boston bags, brief cases, hat boxes, valises, traveling bags, trunks, lift vans, barrels, boxes, cartons, crates, cases,

baskets, pails, kits, tubs, drums, bags (jute, cotton, burlap or gunny) or bundles (completely wrapped in jute, cotton, burlap, gunny, fibreboard, or straw matting). 2. Automobiles, trucks and buses, viz.: new and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses and taxis, freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses and bus chassis. 3. Livestock, viz: barrows, boars, bulls, butcher hogs, calves, cattle, cows, dairy cattle, ewes, feeder pigs, gilts, goats, heifers, hogs, kids, lambs, oxen, pigs, rams (bucks), sheep, sheep camp outfits, sows, steers, stags, swine or wethers. 4. Liquids, compressed gases, commodities in semiplastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers or a combination of such highway vehicles. 5. Commodities when transported in bulk in dump-type trucks or trailers or in hopper-type trucks or trailers. 6. Commodities when transported in motor vehicles equipped for mechanical mixing in transit. 7. Logs.

Note A.—San Francisco-East Bay Cartage Zone.

The San Francisco-East Bay Cartage Zone includes the area embraced by the following boundary: Beginning at the point where the San Francisco-San Mateo County Boundary Line meets the Pacific Ocean; thence easterly along said boundary line to Lake Merced Boulevard; thence southerly along said Lake Merced Boulevard to South Mayfair Avenue; thence westerly along said South Mayfair Avenue to Crestwood Drive; thence southerly along Crestwood Drive to Southgate Avenue; thence westerly along Southgate Avenue to Maddux Drive; thence southerly and easterly along Maddux Drive to a point one mile west of State Highway 82; thence southeasterly along an imaginary line one mile west of and paralleling State Highway 82 (El Camino Real) to its intersection with the southerly boundary line of the City of San Mateo; thence along said boundary line to U.S. Highway 101 (Bayshore Freeway); thence leaving said boundary line proceeding to the junction of Foster City Boulevard and Beach Park Road; thence northerly and easterly along Beach Park Road to a point one mile south of State Highway 92; thence easterly along an imaginary line one mile southerly and paralleling State Highway 92 to its intersection with State Highway 17 (Nimitz Freeway); thence continuing northeasterly along an imaginary line one mile southerly of and paralleling State Highway 92 to its intersection with an imaginary line one mile easterly of and paralleling State Highway 238; thence northerly along said imaginary line one mile easterly of and paralleling State Highway 238 to its intersection with "B" Street, Hayward; thence easterly and northerly along "B" Street to Center Street; thence northerly along Center Street to Castro Valley Boulevard; thence westerly along Castro Valley Boulevard to Redwood Road; thence northerly along Redwood Road to Somerset Avenue; thence westerly along Somerset Avenue and 168th Street to Foothill Boulevard; thence northwesterly along Foothill Boulevard to the southerly boundary line of the City of Oakland; thence easterly and northerly along the Oakland Boundary Line to its intersection with the Alameda-Contra Costa County Boundary Line; thence northwesterly along said County Line to its intersection with Arlington Avenue (Berkeley); thence northwesterly along Arlington Avenue to a point one mile northeasterly of San Pablo Avenue (State Highway 123); thence northwesterly along an imaginary line one mile easterly of and paralleling San Pablo Avenue to its intersection with County Road 20 (Contra Costa County); thence westerly along County Road 20 to Broadway Avenue; thence northerly along Broadway Avenue to San Pablo Avenue (State Highway 123) to Rivers Street; thence westerly along Rivers Street to 11th Street; thence northerly along 11th Street to Johns Avenue; thence westerly along Johns Avenue to Collins Avenue; thence northerly along Collins Avenue to Morton Avenue; thence westerly along Morton Avenue to the Southern Pacific Company right-of-way and continuing westerly along the prolongation of Morton Avenue to the shoreline of San Pablo Bay; thence southerly and westerly along the shoreline and waterfront of San Pablo Bay to Point San Pablo; thence southerly along an imaginary line to the San Francisco waterfront at the foot of Market Street; thence westerly along said waterfront and shoreline to the Pacific Ocean; thence southerly along the shoreline of the Pacific Ocean to point of beginning.

New Mexico Docket 4421 filed May 8, 1979. Applicant: SHUTTLEJACK, INC., d.b.a. SANTA FE CAB COMPANY, P.O. Box 5793, Santa Fe, NM 87501. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: For authority to operate a taxi service as a common carrier by motor vehicles in intrastate serving between points in Santa Fe County on the one hand, and, points in Rio Arriba, Taos, Sandoval, Los Alamos and Bernalillo Counties, NM, with equipment stationed in Santa Fe over irregular routes under non-scheduled service. Transportation of interstate shipment by air in the same territory described above pursuant to Section 206(a)(6) of the Interstate Commerce Act. Intrastate, interstate and foreign commerce authority sought. Hearing: July 31, 1979, at 9:30 A.M., Offices of the New Mexico State Corporation Commission, P.E.R.A. Building, Santa Fe, NM. Requests for procedural information should be addressed to New Mexico State Corporation Commission, Transportation Division, Santa Fe, NM 87501, and should not be directed to the Interstate Commerce Commission.

New York Docket T-2237 filed April 24, 1979. Applicant: TEAL'S EXPRESS, INC., 36 Laura Street, Lyons Falls, NY 13368. Representative: ROY D. PINSKY, ESQ., 1020 State Tower Bldg., Syracuse, NY 13202. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: General commodities between the Cities of Syracuse and Utica on the one hand, and, on the other, the Towns of Camden and Vienna, Oneida County. Intrastate, interstate and foreign commerce authority sought. HEARING Date, time and place not yet fixed. Requests for procedual information should be addressed to S. G. Duckor, Department of Transportation, 1220 Washington Ave., State Campus Building #4, Room G-21, Albany, NY 12232, and should not be directed to the Interstate Commerce Commission.

South Carolina Docket 79-149-T filed April 4, 1979. Applicant: GREENWOOD MOTOR LINES, INC., Montague Avenue (P. O. Drawer 336), Greenwood, SC 29611. Representative: WILLIAM B. PATRICK, JR., Post Office Drawer 1207, Greenwood, SC 29602. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: Commodities in general (except any commodities or products in bulk in tank trucks; classes A and B explosives and classes A, C and D poisons as defined under explosives and other dangerous articles in American Trucking Association, Inc., Agent, Tariff No. 10, MF-ICC No. 11, PSCSC No. 11, supplements thereto or reissues thereof; and household goods and related articles, as defined in Motor Truck Rate Bureau, Agent, household goods tariff, motor freight tariff No. 8-C, SCPSC-MF No. 79, supplements thereto

or reissues thereof): Between points and places in Laurens County, and points and places in South Carolina. Applicant's application to the South Carolina Public Service Commission is to amend the foregoing provision to include Abbeville, Anderson, Edgefield and McCormick Counties so that the entire amended authority will read: Commodities in general (except any commodities or products in bulk in tank trucks; classes A and B explosives and classes A, C and D poisons as defined under explosives and other dangerous articles in American Trucking Association, Inc., Agent, Tariff No. 10, MF–ICC No. 11, PSCSC No. 11, supplements thereto or reissues thereof; and household goods and related articles, as defined in Motor Truck Rate Bureau, Agent, household goods tariff, motor freight tariff No. 8–C, SCPSC–MF NO. 79, supplements thereto or reissues thereof): Between points in places in Abbeville, Anderson, Edgefield, Laurens and McCormick Counties, and between points and places in these counties and points and places in South Carolina. Intrastate, interstate and foreign commerce authority sought. HEARING: Date, time and place not yet fixed. Requests for procedural information should be addressed to South Carolina Public Service Commission, P.O. Drawer 11649, Columbia, SC 29211, and should not be directed to the interstate Commerce Commission.

MC 7521 (amendment), filed February 14, 1979. Applicant: AAA WISE EXPRESS, INC., 135 Lemuel Street, Nashville, TN 37207. Representative: Roland M. Lowell, 618 United American Bank Building, Nashville, TN 37219. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: General commodities (except commodities in bulk, household goods, and those commodities which because of size or weight require special handling or equipment), between Nashville, TN, and Memphis, TN, serving the intermediate points of Jackson, TN, and all intermediate points between Jackson and Memphis and as off-route points, all points in Madison County, TN, not on the regular described routes, Humboldt, TN, and Milan, TN: (a) from Nashville over U.S. Hwy 70 to Memphis and return over the same route, and (b) from Nashville over Interstate Highway 40 to Memphis and return over the same route. Intrastate, interstate and foreign commerce authority sougth. HEARING: June 25, 1979, (1 week), 9:30 A.M., The Executive Plaza Inn, 1471 Brooks Rd, Memphis, TN. Requests for procedural information should be addressed to Tennessee Public Service Commission, Cordell Hull Building, Nashville, TN 37219, and should not be directed to the Interstate Commerce Commission.

Interstate Commerce Commission

Office of Proceedings

Irregular-Route Motor Common Carriers of Property—Elemination of Gateway Letter Notices; Notice

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's *Gateway Elimination Rules* (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission *within 10 days* from the date of this publication. A copy must also be served upon applicant or its representative. Protests against the elemination of a gateway will *not* operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

The following applicants seek to operate as a *common carrier*, by motor vehicles, over irregular routes.

MC 52704 (Sub-E13), filed June 3, 1974. Applicant: GLENN McCLENDON TRUCKING CO., INC., Lafayette, AL. Representative: Archie B. Culbreth, Suite 246, 1252 W. Peachtree Rd., N.W., Atlanta, GA 30309. *Glass bottles* for beverages and food, from points in TN to points in FL restricted against shipments from points in TN west of TN Hwy 56 to points in FL west of U.S. Hwy 231 and from points in TN north and east of U.S. Hwy 25 and 25W (except Knox County) to points in FL on and east of a line beginning at the FL–GA State line extending along I Hwy 75 to jct. FL Turnpike, then along FL Turnpike to Ft. Pierce, FL. (Gateway eliminated: Lafayette, AL.)

MC 83539 (Sub-E577), filed May 31, 1977. Applicant: C & H TRANSPORTATION, 9757 Military Parkway, P.O. Box 270535, Dallas, Texas 75227. Representative: H.N. Cunningham, III (same as above). *Heavy machinery*, between points in CT, on the one hand, and, on the other, points in TN. (Gateway eliminated: Philadelphia, PA, Johnson City, TN, and points in VA within 100 miles of Johnson City, TN.)

MC 107002 (Sub-E169) (correction), filed May 13, 1974, published in the **Federal Register** issue of May 30, 1975. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, MS 39205. Representative: John J. Barth (same as above). *Tall oil*, which can be transported as a vegetable oil, in bulk, in tank vehicles, from Panama City, FL, to points in OH. (Gateway eliminated: Bay Minette, AL.) Purpose of republication—correct the commodity description.

MC 107002 (Sub-E170) (correction), filed May 13, 1974, published in the **Federal Register** issue of May 30, 1975. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, MS 39205. Representative: John J. Barth (same as above). *Naval stores and naval store products*, in bulk, in tank vehicles, from Mobile, AL, to points in MD. (Gateway eliminated: Picayune, MS.) Purpose of republication—correct the commodity description.

By the Commission.

H. G. Homme, Jr.,

Secretary.

[FR Doc. 79-17291 Filed 6-4-79; 8:45 am]

BILLING CODE 7035-01-M

Sunshine Act Meetings

Federal Register
Vol. 44, No. 109
Tuesday, June 5, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

CIVIL AERONAUTICS BOARD.

Notice of deletion of item from the May 31, 1979 meeting agenda.

TIME AND DATE: 10 a.m., May 31, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT: 19. Docket 35639: Contingent Application of Pacific Southwest Airlines for exemption (Memo 8851, OGC).

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, The Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: Item 18 is being deleted from the May 31, 1979 agenda in order for the staff to do additional work. Accordingly, the following Members have voted that agency business requires the deletion of Item 19 from the May 31, 1979 agenda and that no earlier announcement of this deletion was possible:

Chairman, Marvin S. Cohen Member, Elizabeth E. Bailey Member, Gloria Schaffer

[S-1117-79 Filed 6-1-79; 3:20 pm]

BILLING CODE 6320-01-M

2

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 44 FR 30813, May 29, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., May 30, 1979.

CHANGE IN THE MEETING: Addition to the agenda meeting of May 30, 1979.

Item No., Docket No., and Company

M-10. RM79-6, Procedures Governing the Collection and Reporting of Information Associated with the Cost of Providing Electric Service.

RP-8. RF79-4, Cities Service Gas Company.

Kenneth F. Plumb,

Secretary.

[S-1116-79 Filed 6-1-79; 2:26 pm]

BILLING CODE 6740-02-M

3

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 10 a.m., June 1, 1979.

PLACE: 825 North Capitol Street NE., Washington, D.C. 20426, Hearing Room P.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

(1) Continuation of May 10, 1979, meeting on a matter related to civil litigation.

(2) A matter related to the conduct of an investigation and an on-the-record proceeding.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, Telephone (202) 275-4166.

[S-1115-79 Filed 6-1-79; 2:26 pm]

BILLING CODE 6740-02-M

4

FEDERAL RESERVE SYSTEM (Board of Governors).

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 44 FR, 30815, May 29, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Wednesday, May 30, 1979.

CHANGES IN THE MEETING: Addition of the following open item(s) to the meeting:

Proposed interpretation of Regulation Q (Interest on Deposits) regarding pooling of funds; and proposed amendments to Regulations Q and D (Reserves of Member Banks) with respect to small denomination repurchase agreements.

[S-1113-79 Filed 6-1-79; 10:14 am]

BILLING CODE 6210-01-M

5

FEDERAL RESERVE SYSTEM: Board of Governors.

TIME AND DATE: 12 noon, Friday, June 8, 1979.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed (or open/closed).

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any agenda items carried forward from a previously announced meeting.

Although no decision has yet been made to do so, the Board may continue its consideration, in open session at 10 a.m., of the following matter, which was discussed on May 30, 1979, and will be discussed on June 6, 1979:

Proposed amendments to Regulation K (International Banking Operations) to implement the International Banking Act. (Proposed earlier for public comment; Docket No. R-0204).

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

[S-1112-79 Filed 6-1-79; 10:14 am]

BILLING CODE 6210-01-M

6

INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Tuesday, June 12, 1979.

PLACE: Room 117, 701 E Street, NW., Washington, D.C. 20436.

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 the public:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary:
a. Inclined-field acceleration tubes (Docket No. 574).
b. Surveyors reels (Docket No. 575).
5. Any items left over from previous agenda.
7. Multicellular plastic film (Inv. 337-TA-54)—vote.

Portions closed to the public:

6. Status report on Investigation 332-101 (MTN Study), if necessary.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary (202) 523-0161.

[S-1114-79 Filed 6-1-79; 2:26 pm]

BILLING CODE 7020-02

federal register

Tuesday
June 5, 1979

Part II

Council on Wage and Price Stability

Noninflationary Pay and Price Behavior; Supplemental Questions and Answers

COUNCIL ON WAGE AND PRICE STABILITY

6 CFR Part 705

Noninflationary Pay and Price Behavior; Supplemental Questions and Answers

AGENCY: Council on Wage and Price Stability.

ACTION: Publication of supplemental Questions and Answers.

SUMMARY: The Council is publishing Questions and Answers (Q's and A's) relating to the Voluntary Standards for Noninflationary Pay and Price Behavior (6 CFR Part 705), which supplement the Q's and A's already published in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Sandra Sherman (with respect to Price) or Daniel Duff (with respect to Pay), Office of General Counsel, 726 Jackson Place, N.W., Washington, D.C. 20506, 202–456–6286.

SUPPLEMENTARY INFORMATION: Since issuing its last set of Q's and A's, the Council has formulated additional ones, some of which were issued in press releases, but most of which were not formally published. All Q's and A's not previously published in the Federal Register are set forth here. These Q's and A's have not been given numbers because the Council will shortly publish a document containing all Q's and A's issued to date, at which time permanent numbers will be assigned.

Authority: Council on Wage and Price Stability Act, Pub. L. 93–387, as amended (12 U.S.C. 1904, note); E.O. 12092.

In consideration of the foregoing, the following Questions and Answers are added to the Council's cumulative Questions and Answers.

Issued in Washington, D.C., May 31, 1979.

Barry Bosworth,

Director, Council on Wage and Price Stability.

The Price Standard

Coverage of the Price Standard

Q. Does the program apply to government service fees and charges?

A. Certain categories of government enterprises are covered (see Section 705C–4).

Q. Does the program apply to companies that receive government subsidies?

A. Yes. However, any company, government or private, that receives a government subsidy is subject to a modified standard that takes into account changes in the subsidy (see Section 705C–4(b)). This modification is designed to avoid a conflict between the price standard and the objective of reducing government subsidies.

Q. Are outside directors' fees considered to be pay or a fee charged by the outside directors and therefore covered by the price standard?

A. Since outside directors are not employees, they are not covered by the pay standard. Although such directors formally do not come under the professional-fee standard, which only covers specified SIC groups, it would be consistent with the intent of the program to apply the 6.5-percent professional-fee standard to directors' fees.

Price Deceleration Standard

Q. What is the distinction between a divestiture and a discontinued product?

A. A divestiture normally refers to the sale of a complete business entity with separate accounting records. The operations of a divested entity should be excluded from all calculations made with respect to the price standard. The provisions concerning discontinued products (Section 705A–3) refer to products that do not constitute the entity's entire operations. Discontinued products are excluded from price calculations only for the period during which they were discontinued.

Q. In computing the program-year rate of price change, how should a price increase announced and effective prior to October 2, 1978 be treated?

A. The date a price increase is announced, or the date it is effective, does not determine how it is treated. The bench-mark for measuring price change in the program year is the *average* price level of the *last fiscal or calendar quarter* prior to October 2, 1978. Therefore, a price increase announced sometime during that quarter influences the base only to the extent that it affects average prices during the quarter. The new price schedule does not become the base just because it was announced, or made effective, prior to October 2, 1978.

Price Calculations

Q. The base-period and program-year rates of price change compare company prices in one quarter with prices in another quarter. How should these quarterly prices be computed?

A. The company should calculate average prices for the quarter by dividing total revenues from the sales of each product by the number of units sold during the quarter. However, for some product lines, the computation of average quarterly prices might be burdensome. In these cases, end-of-period prices can be used *if they are representative* of average prices for the entire quarter.

Q. Subpart 705D indicates that, if seasonal factors are important, the revenue shares (S_i) used to compute the base-period rate of price change can be calculated using data from the entire base period. Must a company use data from both years of the base period, or is data from one year sufficient?

A. The company should use data from the entire two-year base period unless there is some compelling reason for not doing so. In that event, the company should use data from the fiscal year ending in 1977.

Q. May a company exclude a processed product from its price calculation if the product's price is tied to quotes from a price reporting service, even though the product is not traded on an open exchange market?

A. No.

Q. Should producers of copper, lead, and zinc exclude sales of these products from their calculation of the company's average price change, based on Section 705A–3(c)?

A. Copper must be excluded under Section 705A–3(c) because major copper producers have adopted the practice of tying their prices to closing prices in the New York Commodity Exchange. As long as this linkage is maintained (particularly over periods of falling as well as rising prices), the exclusion will continue to be applicable. The exclusion does not apply to prices for fabricated copper products. Producers of lead and zinc do not qualify for this exclusion because price changes of these commodities are not closely related to price movements on an organized exchange market.

Q. Is a product sold to the U.S. Government but delivered overseas considered an export and therefore excluded by company price calculations under Section 705A–3(d)?

A. No. All sales to the U.S. Government, regardless of place of delivery, are considered domestic transactions.

Six-Month and Nine-Month Standards for Price Increases

Q. Price increases in excess of the six-month and nine-month limitations can be justified on grounds of "seasonal variations in business operations, historical business practices, or unusual business conditions." What are some examples of these conditions?

A. The term "seasonal variations" refers to such things as once-a-year sales, model-year price increases,

seasonal demand, and time-of-year pricing (e.g., seasonal pricing by utilities). The term "historical business practices" refers to phenomena such as price increases following the regular signing of labor contracts. The term "unusual business conditions" refers to changes in costs that cannot be attributed to seasonality or historical patterns and that are not expected to persist throughout the program year. Unusually strong demand does *not* constitute a justification for exceeding the six-month or the nine-month standard.

Q. In documenting seasonality of price variations, may a company consider only a select set of product prices (for example, only those that it thinks may exhibit seasonal variation) or should it calculate seasonal factors for all of its products?

A. The calculations should be made for *all* of the product prices covered by the standard.

Q. The Six-Month and Nine-Month Standards for Price Increases (705A–4) require the computation of average rates of price change for the first six and nine months of the program year. How should this be done?

A. First, the change from the average price during the base quarter to the average price during the second quarter of the program year should not exceed 50 percent of the allowable program-year rate of price increase. Second, the change from the average price of the base quarter to the average price of the third quarter of the program year should not exceed 75 percent of the allowable program-year rate of price increase. For example, if a company sells one commodity at an average price of $100 in the base quarter (obtained by dividing base-quarter revenues by the number of units sold in the base quarter) and has an allowable program-year rate of price change of 6 percent, the average price in the second quarter of the program year should not exceed $103 and the average price in the third quarter should not exceed $104.50.

Insufficient Product Coverage

Q. If a firm is required to satisfy the profit-margin limitation due to insufficient product coverage, as defined in Section 705A–5(b), should it also satisfy the price deceleration standard on those products not excluded under Section 705A–3?

A. Yes. The company should satisfy the price deceleration standard for the nonexcluded products and also should satisfy the profit-margin limitation on a company-wide basis.

Profit-Margin Limitation

Q. One of the grounds for eligibility for the profit-margin exception to the price deceleration standard is uncontrollable cost increases. How does the Council determine whether the company is eligible for this exception?

A. The evaluation of eligibility for the exception should focus on costs, not profit margins. Net cost increases per unit of output that exceed the firm's allowable program-year rate of price change constitute a basis for an exception. On the other hand, the fact that the profit margin during the program year will be below the weighted average for the best two out of the last three years does *not* constitute a basis for an exception.

To qualify for a profit-margin exception, a firm must first demonstrate that the cost of goods sold on a per-unit basis is rising at a rate in excess of the allowable program-year rate of price change and is expected to continue to do so by an amount that would result in a significant erosion of the profit margin if the firm were held to the price deceleration standard.

Second, it must be demonstrated that the cost increases are substantially uncontrollable. Such demonstration requires that total unit costs be disaggregated into labor costs, costs of purchased materials and services, and overhead costs. The following are illustrative of the situations presented to the Council. With respect to labor costs, pay-rate increases in excess of the pay standard do *not* constitute uncontrollable cost increases, and the firm is expected to adjust for improvements in labor productivity equivalent to the average gains of recent years. Cost increases for purchased materials and services used in the manufacture of the company's end product generally would be considered to be uncontrollable. Unit overhead cost increases that result from declines in physical volume are *not* uncontrollable cost increases.

Q. Under its procedures the Council may condition its approval of an exception. If a company self-administers a profit-margin exception on grounds of uncontrollable cost increases, what conditions should be imposed on its pricing actions?

A. The profit-margin exception is designed to provide relief to a company that experiences increases in total costs per unit of output that are substantially uncontrollable and that exceed its allowable program-year price change. In such cases, adherence to the price deceleration standard could seriously erode a firm's profit position. However, a firm that cannot achieve price deceleration should not use the profit-margin exception as a way of making up for a poor profit performance prior to the beginning of the program. Nor should *unusually large* cost increases be used to justify equal percentage increases in prices (which would increase profit by the same percentage). Thus, prices should rise no more than necessary to permit the company to pass through its cost increases per unit of output.

A company that self-administers the profit-margin exception, therefore, should adhere to the profit-margin limitation of Section 705A–6 of the standards. In addition, the company's price increases should be restricted to a passthrough of its increases in total unit cost (costs, including all overhead items, per unit of output). The passthrough may be on a percentage basis (cost plus a normal markup) up to a cumulative increase of 6.5 percent from the base quarter, but should be limited to a dollar-for-dollar passthrough of unit-cost increases beyond that level.

Ideally, compliance should be judged by comparing an index of price changes with an index of the changes in the total costs of producing a unit of that output. The cost index should exclude the effects of volume changes on fixed costs, of inventory changes, and of shifts in the composition of input purchases. It should include an estimate of normal gains in the efficiency of using inputs (productivity). The use of such an index would ensure that price increases would not reflect unit-cost increases due to abnormally low productivity gains (measured as a deviation from past trends) or increased overhead charges that result from reductions in the volume of operations.

However, if the company cannot calculate these indexes, it can assure compliance in each quarter of the program year by taking price actions that limit the growth in profit from the base quarter to an annual rate of 6.5 percent plus the percentage growth in physical volume and that are consistent with the profit-margin limitation.

Q. To monitor compliance with the profit-margin limitation, firms will need to estimate or project their profit performance during the program year. Since even good estimates may be in error because of unforeseen circumstances, how will the Council determine compliance with the profit-margin limitation?

A. Firms that are automatically subject to the profit-margin limitation due to insufficient product coverage (e.g., due to substantial revenues from

sales of new and custom products) are expected to estimate prospective profits based on reasonable assumptions about economic and other conditions during the program year. Such firms will not be placed on a noncompliance list if they can demonstrate that any differences between estimated and actual profits were due to unforeseeable developments. However, these firms are expected to monitor their profit performance on a quarterly basis and, when necessary, make immediate adjustments to achieve future compliance.

In the case of firms that are granted or self-administer a profit-margin exception to the price deceleration standard on the ground of uncontrollable cost increases, failure to satisfy the profit-margin limitation will result in a determination of noncompliance unless there are extreme extenuating circumstances that the company could not reasonably be expected to take account of.

Q. How do cooperatives comply with the profit-margin limitation?

A. Since cooperatives are nonprofit organizations, they should comply with the operating-margin limitation. For these organizations, operating surplus includes patronage dividends and retained earnings.

Profit Calculations

Q. Part (ii) of the profit-margin limitation states, "Program-year profit should not exceed base-year profit by more than 6.5 percent *plus* any positive percentage growth in physical volume from the base year to the program year." But, in the *Implementation Guide*, a multiplicative rather than an additive factor is used for volume adjustment. Which method should be used?

A. Either method is acceptable.

Q. In the definition of profits (Section 705A–6(a)(2)(i)), does interest expense include interest on accounts receivable? Does it also include discounts on receivables?

A. Interest expenses include all payments of interest regardless of purpose. Discounts on receivables are also defined as an interest expense for purposes of determining compliance with the profit-margin limitation.

Q. Are the proceeds from the sale of a company's productive assets, such as plant and equipment, included as revenues in determining compliance with the profit-margin limitation?

A. No.

Q. If a construction company that produces custom construction work (meeting the definition in Section 705A–3(h)) has dollar profit growth in excess of 6.5 percent because of an increase in physical volume, how should it measure physical volume to demonstrate compliance?

A. Such a company would be requested to provide a measure of volume growth that is appropriate to the company's own operations. This measure could be based upon a measure of output (such as a sum across projects of square footage weighted by the fraction of each project completed during the measurement period) or, if an output measure cannot be computed, a measure of input usage (such as an index of labor and material inputs used over the period). In any case, the measure used should be reasonable and should be designed to reflect the physical volume of activity over the program year relative to the preceding year. The Council recognizes that measures of physical volume are difficult to construct for custom products; however, if a firm claims that physical volume has increased, it must have had some data to support that belief, and this should be presented to demonstrate compliance.

Q. Should a nonprofit organization include depreciation as a cost in determining its operating surplus and operating margin?

A. In determining compliance, depreciation should be considered as a cost only if it has been the company's historical practice to include depreciation in its current expense account.

Undue Hardship and Gross Inequity

Q. Are any explicit provisions made for nonprofit organizations with operating deficits in the base period? Can such companies raise the prices of goods and services to attain a balanced budget or reduced deficit and still be in compliance with the operating-margin limitation?

A. No such general provision has been provided although companies in this situation may qualify for an undue hardship exception. A blanket hardship exception would be inappropriate since, in spite of base-period and current deficit situations, many institutions are financially viable due to accumulated reserves or endowments that are not restricted legally from current operating use.

The Pay Standard

Pay and Pay Rates

Q. How is premium pay treated under the standard?

A. Premium pay, other than overtime for hours in excess of scheduled daily or weekly hours, is included as pay in both the base and program quarters.

Q. Are allowances for such items as tools, uniforms, and safety shoes subject to the pay standard?

A. Not if the item is used on the job *and* the allowance is reasonable as a reimbursement for expenditures actually to be incurred.

Q. How are payments dictated by arbitration treated under the pay standard?

A. Payments in excess of the guidelines that are dictated by legally-mandated binding arbitration will not put a company out of compliance with the pay standard.

Collective Bargaining Units

Q. In industries where contracts are bargained by employer associations for defined geographical areas, how should companies that are not members of the association be treated for compliance purposes?

A. Any company that operates under the terms of a local contract that is out of compliance with the pay standard will be considered out of compliance within the geographical area covered by the contract.

Nonunion Standard

Q. How is compliance determined for these plans? (This question follows II–E, Q15, *FR*, 1/25/79.)

A. The pay rate in effect in the last quarter of the *new* company plan year should not exceed 107 percent of the pay rate in effect in the last quarter of the *prior* plan year.

Future-Value Compensation

Q. If a company chooses to use the alternate method for calculating the base period number of units issued under a future-value incentive plan, should the five-year average include years in which no units were issued?

A. Yes.

Q. Section 705B–5(c) in part applies to "successor" future-value incentive plans. What qualifies as a successor plan?

A. A successor plan is one which is established upon the termination of an existing future-value plan, and is of the same type as the old plan. For example, if a company stock option plan expires and a new stock option plan is created, the new plan is allowed successor treatment under Section 705B–5(c). Successor plan treatment may also apply to follower future-value incentive plans of a different type if a company can demonstrate that the basic value of the new units is generally equal to the value of the replaced units, for example,

a company may substitute long-term performance units for existing stock appreciation units and apply successor treatment under Section 705B–5(c), so long as the long-term performance units are not of greater value than the stock appreciation units being replaced.

Q. Are dividends received in connection with units of future-value compensation included as pay?

A. No.

Health and Welfare Benefits

Q. Does the treatment of health benefit maintenance costs set out in Section 705B–6 apply to plans that pay fixed-dollar amounts for particular services?

A. Yes, but only if the company continues to pay the same share of the actual cost of such services; any increase in company share paid would be chargeable against the pay standard.

Pensions

Q. If a pay-related defined-benefit pension plan is amended, how should employer costs be determined for purposes of pay-rate computations?

A. One of two methods may be used. Under the first method, the change in employer costs would be the sum of (a) the cost change associated with pay-level changes determined by the method in Question 3 prior to the plan amendment, and (b) the change in program year cost due to the amendment itself. This cost change would be added to the base pension cost in determining program-year pension cost and program-year pay rates.

A second simpler procedure would closely approximate the outcome of these calculations. Under this method, the change in the program-year cost due to the plan amendment would be included in determining program-year pay rates and all other pension funding costs would be excluded from both the base and program-year computations.

Q. How are "qualified" profit-sharing retirement plans treated under the pay standard?

A. Profit-sharing retirement plans that qualify under Section 401(a) of the Internal Revenue Code (are nondiscriminatory) and are based on a formula rather than being discretionary may be excluded from the coverage of the pay standard if the formula is not changed; plan costs should be excluded from both the base quarter and the program year. Otherwise, profit-sharing plans should be treated as incentive bonus plans.

Modified Price Standards for Selected Industries

Wholesale and Retail Trade and Food Manufacturing and Processing

Q. How is the cost of food products (Section 705C–2(b)(1) defined for a vertically integrated company that produces both raw and processed products?

A. The company can use an estimate of the market price of raw agricultural products, based on price quotations from an organized market, to determine the cost of raw agricultural products for purposes of complying with the margin standard. If such estimates are not available, the cost of inputs at the farm level can be used in lieu of the cost of raw agricultural products.

Professional Fees

Q. For some companies, such as architectural and engineering companies, fees are determined on a percentage basis. Are such companies allowed to increase the percentage fee by 6.5 percent under the professional fee standard?

A. No. The 6.5-percent professional-fee standard is applicable only to fixed dollar fees charged for particular services.

Q. Architectural and engineering companies often determine fees as a percentage of total project construction costs. Would such a company be in compliance with the professional-fee standard if it can demonstrate that the patterns of percentage fees charged during the program year is not higher than the pattern used for projects prior to October 2, 1978?

A. Yes. Assuming that construction costs go up at the target rate of inflation with full compliance with the Price and Pay Standards (6.5 percent), holding the percentage fee constant would be equivalent to raising dollar fees by 6.5 percent.

Q. How might a company demonstrate compliance with the professional-fee standard if the prices of its services are calculated by adding to the costs incurred an additional fee determined as a percentage of direct labor costs?

A. In this situation, a company could demonstrate compliance by showing (i) that the pattern of percentage multipliers used during the program year is no higher than the patterns used prior to October 2, 1978, and (ii) that the firm is in compliance with the pay standard.

Q. How might a firm demonstrate compliance with the professional-fee standard if its prices are based on cost-plus-fixed-fee arrangements (where contract prices are based on expenses—direct labor costs, a percentage markup over direct labor costs to cover overhead, and other direct expenses—plus a negotiated percentage fixed fee)?

A. In this situation, a firm would be considered to be in compliance if (i) the pattern of percentage direct labor multipliers used during the program year is no higher than the pattern used prior to October 2, 1978, (ii) the firm is in compliance with the pay standard, and (iii) the pattern of percentage fixed fees negotiated during the program year is no higher than the pattern negotiated prior to October 2, 1978.

Q. Firms, such as architectural and engineering firms, may negotiate lump-sum or firm fixed prices for particular services. However, these contract prices are often determined in a manner similar to cost-plus-fixed-fee arrangements. As an example, the lump-sum fee may be set by adding to direct labor costs a percentage markup to cover overhead and other expenses, plus an amount to cover risk and pre-tax profit. How does the professional-fee standard apply to this type of pricing arrangement?

A. The application is similar to the cost-plus-fixed-fee arrangement. Such a firm would be considered to be in compliance if (i) the pattern of percentage direct labor multipliers used during the program year is no higher than the pattern used prior to October 2, 1978, (ii) the firm is in compliance with the pay standard, and (iii) the pattern of amounts negotiated during the program year to cover risk and pre-tax profit does not exceed by more than 6.5 percent the pattern negotiated prior to October 2, 1978, for similar classes of jobs.

Q. What price or pay standards apply to physicians whose services are provided to members of a health maintenance organization (HMO)?

A. An HMO is an organization that provides or is responsible for the provision of health services (including professional medical and hospital care) to its members, on a prepaid basis. Since there is a variety of physician-compensation arrangements for HMOs, the following standards apply.

- Physicians who are salaried by an HMO are covered under the 7-percent pay standard.
- Physicians who are paid by an HMO on a fee-for-service basis are covered under the 6.5-percent professional-fee standard.
- Physicians who are members of a medical group that contracts with an HMO are covered under the 7-percent pay standard. If the pay arrangement between the physician and the medical

group includes components for physician compensation, risk, office expenses, and other types of expenses, then the physician-compensation component should meet the 7-percent standard; and the formula or means of determining compensation for the other components should not differ from past practice in ways that are intended to circumvent the 7-percent pay standard.

Federal, State, and Local Government Enterprises and Government-Subsidized Private Companies

Q. In computing subsidy-adjusted price changes, what payments should be included as subsidies?

A. In general, any direct government grant or payment that allows the enterprises to charge a lower price for its services is a subsidy. Thus, for example, payments to transit companies or universities to cover deficits in their operating expenses would be considered subsidies. On the other hand, a student-aid grant which allows a student to pay tuition, but does not result in a lower tuition level is not a subsidy. Similarly, a government contract for specific goods or services rendered to the government is not a subsidy.

Financial Institutions

Q. Are credit or finance companies covered under the financial-institution standard?

A. No. Such companies should comply with the profit-margin limitation.

Q. Since the profit standard for financial institutions is on a calendar-year basis, do these institutions use a calendar year for the pay standard?

A. No. The program year for the pay standard is the same as for other companies.

Procedures

Exceptions

Q. Will the Council create a generic hardship exception to the price standards for companies operating at a loss?

A. There is no general exception for companies operating at a loss. The Council will consider the circumstances of individual companies on a case-by-case basis, as indicated in Section 706.31.

Q. Under the Council's procedural rules, companies should request exception from the pay standard if the request affects an employee unit of more than 100 employees and the company has at least 1,000 employees, or if the affected collective bargaining agreement covers 1,000 more employees. What employees should companies count for these purposes?

A. A company should count all employees, including part-time workers and those earning less than $4 an hour (even though these are not included for pay-computation purposes).

Q. If a company self-administered a hardship exception when it was not eligible for advance approval, and it is now requested to obtain approval under § 706.31(a), should it seek ratification of the exception?

A. No. However, the company should notify the Council that it has self-administered a hardship exception, provide the date on which it took such action, and maintain supporting documentation consistent with § 706.34(a)(5)(vi) to be made available to the Council on request.

Q. If a company submits a request for exception with insufficient supporting data, what action may the Council take?

A. The Council can deny the request or, at its option, ask for additional data. If it asks for more data, the Council may condition its request on a time certain for response.

Q. Does Section 706.31(a)(2) mean that a request for a determination as to the applicability of the pay standard need not be made if the exception would apply to a collective bargaining unit of fewer than 1,000 employees?

A. No. A collective bargaining unit is an employee unit. Therefore, if the agreement would affect 100 or more employees (in a company with 1,000 or more employees), a determination should be requested. In addition, if a multi-employer collective bargaining agreement covers more than 1,000 employees, a determination should be requested regardless of the number of employees in the individual companies or in the individual companies' employee units.

Determination of Noncompliance

Q. If a company determines that it was out of compliance with the six-month standard, what actions should it take to bring itself back into compliance?

A. First, the company should take whatever pricing actions are necessary so that the average of its prices during the third quarter of the program year comply with the nine-month standard for price increases.

Second, the company should take steps to return to the marketplace the revenues derived by the company in exceeding the six-month standard. Since individual companies can achieve this objective in a variety of ways (e.g., refunds, credits, or going below the nine-month standard, etc.) the company should consult with the Council to develop a mutually acceptable plan.

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Part III

Department of Transportation

Office of the Secretary

Truck Size and Weight Study; Announcement of Public Meetings and Establishment of Open File

DEPARTMENT OF TRANSPORTATION

[Notice 79-10]

Truck Size and Weight Study; Announcement of Public Meetings and Establishment of Open File

AGENCIES: Department of Transportation (DOT).

ACTION: Announcement of public meetings and establishment of Open File.

SUMMARY: The Secretary of Transportation has been directed by the Congress, in Section 161 of the Surface Transportation Assistance Act of 1978 (Public Law 95-599), to conduct a study and investigation of the need for, and desirability of, uniformity in maximum truck size and weight limits throughout the United States. The Act also directs that the study be conducted in cooperation with other affected parties. A series of four public meetings has been scheduled to receive oral presentations of information and comment from interested individuals and groups concerning the issues involved and the regional and local impacts of possible changes in the sizes and weights of trucks operating on the Nation's highways. In addition to these meetings, an Open File is being established to which the public is invited to submit information on these issues.

ADDRESS: Address requests to speak to: Truck Size and Weight Study Public Meetings, Office of Intermodal Transportation, P-10, Room 9216, Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20590. Address submittals to the Open File to: Truck Size and Weight Study Open File, Office of Intermodal Transportation, P-10, Room 9216, Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20590.

DATES: Meeting Dates: 9:00 a.m. CDT, Friday, July 13, 1979. Conrad Hilton Hotel, 720 S. Michigan Avenue, Chicago, Illinois; 9:00 a.m. EDT, Tuesday, July 17, 1979. Hilton Gateway Hotel, Gateway Center, Raymond Blvd., Newark, New Jersey; 9:00 a.m. EDT, Tuesday, July 24, 1979. Holiday Inn Four Seasons, 3121 High Point Rd. & I-40, Greensboro, North Carolina; 9:00 a.m. PDT, Tuesday, July 31, 1979. Claremont Resort Hotel, Ashby & Domingo Avenues, Oakland, California.

CLOSING DATE FOR SUBMISSIONS TO THE OPEN FILE: 5:00 p.m. EDT, October 31, 1980.

FOR FURTHER INFORMATION CONTACT: Philip Barbato, Staff Member, Truck Size and Weight Study, Office of Intermodal Transportation, Department of Transportation, (202) 426-2090.

SUPPLEMENTARY INFORMATION

I. Background

A brief review of the history of State and Federal involvement in truck size and weight regulation will assist in understanding the current problems and concerns.

As early as 1913, four States had established legal limits on the sizes and weights of trucks operating within their borders. By 1950, all 48 contiguous States had set size and weight limits, but the situation was far from uniform. Gross vehicle weight limits ranged from 35,000 to 110,000 pounds, with 34 States allowing at least 60,000 pounds and 14 States permitting less than 60,000. Single-axle loads ranged from 16,000 to 22,400 pounds with 42 States permitting 18,000 or more. All States allowed a height of at least 12.5 feet and some States permitted heights up to 14 feet. Widths were generally set at 96 inches with two States permitting 102 inches and one State with no restriction. All States allowed lengths of combinations up to 45 feet; eight allowed greater lengths and one had no restriction.

In addition, the methods of establishing the maximum allowable weights varied widely. Some States established a formula based on axle weights and spacing to limit allowable stresses on bridges. Others set weight limits based on tire width or wheel or axle loads. Truckers making interstate trips found it difficult to comply with the various standards and still carry economic payloads. With the inception of the Interstate highway program in 1956, there was concern in both the Congress and the Executive Branch that this huge Federal-aid investment should be protected by restricting the operation of large and heavy trucks. The Federal-Aid Highway Act of 1956 set the following maximum limits for truck operation on the Interstate system:

Width	96 inches.
Single-axle load	18,000 lbs.
Tandem-axle load	32,000 lbs.
Gross vehicle weight	73,280 lbs.
Height	No restriction.
Length	No restriction.

However, the law was permissive; States could maintain lower limits at their discretion. Also, a "grandfather" clause permitted higer limits if they were legally in effect on July 1, 1956. Such greater limits were in effect as follows:

Single-axle—26 States allowed more than 18,000 lbs.; 15 of these allowed 20,000 lbs. or more.

Tandem-axle—24 States allowed more than 32,000 lbs.; 8 of these allowed 36,000 lbs. or more.

Width—3 States allowed widths of 102 inches of more.

Efforts to increase the allowable limits have persisted over the years. The oil embargo in 1973 and the subsequent enactment into law of the national 55-mph speed limit as a fuel conservation measure resulted in the amendment of the permissive Federal maximums in order to offset the loss of productivity occasioned by the reduced speed limits. It was generally recognized that this could lead to increased highway maintenance costs. The Federal-Aid Highway Amendments of 1974 authorized an increase in the permissible maximum allowable weights as follows:

Single axle	from 18,000 lbs. to 20,000 lbs.
Tandem axle	from 32,000 lbs. to 34,000 lbs.
Gross vehicle weight	from 73,200 lbs. to 80,000 lbs.

Gross vehicle weight is subject to the bridge formula as follows:

$$W = 500\left(\frac{LN}{N-1} + 12N + 36\right)$$

Where

W = gross vehicle weight
L = distance in feet between the extreme of a group of two or more consecutive axles
N = number of axles in group under consideration

Federal regulations contain no limits on the length of vehicles or combination of vehicles. Each State is free to set its own limits on the total overall length in combinations and the number of towed vehicles on both the Interstate system and other highways within its borders. As of January 1979, ten States and the District of Columbia have not adopted the 80,000 lb. gross vehicle weight limit and nineteen States either do not permit the operation of 65-foot long, double-trailer combinations or have overall length limits which preclude their use.

II. Scope of Study

The study is intended to respond to the Congressional directive in Section 161 of the Surface Transportation Assistance Act of 1978 in a broad and comprehensive manner. This will be done by developing a number of alternative scenarios of changes to State truck size and weight limits. These scenarios will be evaluated to assess the social, economic, and institutional impacts and costs and benefits on the following:

A. Intermodal competition, traffic diversion and effects on motor carrier and other freight carrier operations, costs and service quality;

B. Existing highways and bridges, future highway and bridge construction, reconstruction and maintenance costs and the adequacy of highway and bridge design standards;

C. Uniformity, at various levels, of State truck size and weight limits;

D. Highway and motor carrier safety;

E. Energy use, including energy required for construction and maintenance of facilities and equipment; and

F. Environmental quality.

The Department will review the results of the assessment, considering the views and comments of State departments of transportation, highway departments, and other affected parties, and develop recommendations for Federal and/or Congressional action, if appropriate.

III. Topics for Public Meeting

The Department is interested in receiving information on any aspect of changes in truck size and weight limits and how they might affect freight carriers, shippers, industry, State and local governments, consumers, the general public and the Nation. Six major areas have been identified for the study and they are listed below with examples of some of the questions or issues which the Department desires to address:

A. Intermodal Competition and Traffic Diversion

- If current axle and gross vehicle weight limits were changed under various scenarios, what commodities, and which markets would be likely to shift among the freight-carrying modes (truck, rail, water, and air)?
- If length or width limits for trucks on the Interstate system and/or all Federal-aid roads were changed, what traffic shifts between modes could be expected?
- What changes would occur in costs of operation and in revenues of the freight-carrying modes?
- How would the Nation's total freight transportation bill change?

B. Highway and Bridge Impacts

- What will be the impact of changes in truck size and weight limits on the service life of pavements and bridges—on the Interstate system, other Federal-aid highways and State and local roads?
- What will be the effect upon construction, reconstruction, and maintenance of roads upon the economy of a State or region, upon energy consumption, and upon carriers of reducing all truck size and weight limits to the maximum Federal limits now prescribed for the Interstate system?
- How will cost of highway and bridge construction, reconstruction and miantenance be affected and how will cost responsibility change as a result of truck size and weight changes?
- Are current highway and bridge design standards adequate with respect to current and future transportation needs, considering costs, economy of transportation, and fuel efficiency?

C. Non-Uniformity in State Limits

- The need for, and desirability of, uniformity in maximum truck size and weight limits throughout the United States.
- What increased costs, time of shipment, and energy consuumption are a result of non-uniformity among State size and weight limits? How are market shares affected?
- What would be the effect upon trucking productivity, revenues, and equipment purchasing if uniformity were achieved? How would these effects vary if uniform limits were established for various parts of the highway system (e.g., Interstate, primary, etc.)? What would be the effect on the other freight modes?
- What are the primary institutional and physical barriers preventing States from achieving uniformity? Are they likely to change in the near future?

D. Impacts on Highway and Motor Carrier Safety

- What is the current safety record of large trucks compared to other freight modes and how should this record be compared (accidents/ property damage/ injuries/fatalities per vehicle mile/per dollar value of service rendered, or what)?
- Are there significant differences in safety of trucks as a result of different size and weight limits currently enforced by the various States?
- Are there safety implications of operating larger or smaller trucks uniformily throughout the Nation? In urban vs. rural areas? On Interstate vs. other highway systems?
- Are there regional safety problems associated with operating larger or smaller trucks?
- Are there safety implications associated with shifting freight to or away from other modes?
- Should standards be set for larger or heavier trucks and tractor/trailers in such safety-related areas as equipment technology, minimum horsepower/gross vehicle weight ratios, minimum speed and acceleration performance on grades, maximum offtracking of combination vehicles, driver performance, or training, etc.?

E. Impacts on Energy Use

- What is the direct energy consumption of the various freight modes, including various truck configurations?
- What technology is available to improve the energy efficiency of the various modes and sub-modes?
- If the energy requirements for construction, reconstruction, maintenance and repair of the rights-of-way and rolling stock of the various modes and sub-modes are considered in addition to direct energy use, what would be the effect on total energy use from changes in truck size and weight limits?

F. Impacts on the Environment

- How would environmental conditions such as noise and air quality, land use and development patterns be affected by changes in truck size and weight limits (considering also any changes in the other freight modes)?
- What technical and operating practices are available to reduce environmental impacts of the various freight modes and do they involve any fuel or performance penalties?

Interested persons are invited to make oral presentations on these or any related topics. DOT is particularly interested to learn about regional or local constraints or problems which might otherwise be overlooked.

IV. Meeting Procedures

1. *Request procedure.* Public meetings to receive oral presentation of data, views, and arguments from interested persons will be held at the times and places indicated earlier in this Notice. Any person who has an interest in the subject matter of this Notice, or who is a representative of a group or class of persons which have such an interest, may make a written request for an opportunity to make an oral presentation. Such a request should be directed to Office of Intermodal Transportation, P–10, Room 9217, Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590. Requests must be received at least 10 working days prior to the meeting date. A request should be labeled, both on the document and on the envelope, "Truck Size and Weight Study Public Meetings."

Note.—The Department of Transportation has a telecopier in its Headquarters building which may be used to transmit requests. The

telephone number is (202) 426–4193. However, the machine is unattended and the only way to insure that a transmission of a request is received, is to call the Office of Intermodal Transportation in advance of the transmission.

The person making the request should describe the interest concerned, state why he or she is a proper representative of a group or class of persons which has such an interest, and give a concise summary of the proposed statement and a telephone number where he or she may be contacted. Each person selected to be heard will be notified by DOT at least five days before each meeting, and must submit 10 copies of his or her statement to the registration desk at the meeting at which he or she is to speak. Those not selected to make an oral presentation are encouraged to submit written comments to the Open File established for the study.

2. *Conduct of meetings.* Due to time constraints, DOT reserves the right to select the persons to be heard, to schedule their respective presentations, and to establish the procedures governing the conduct of the meetings. The time allotted to each presentation may be limited, depending on the number of persons requesting to be heard. Each person testifying should be prepared to submit his or her statement and attachments for the record and to make a summary oral presentation. DOT officials will preside at the hearings. These will not be judicial or evidentiary-type hearings. Questions may be asked only by those conducting the meetings.

If time permits at the end of a meeting, any person who makes an oral statement may ask a question of any other person making a statement, but such questions must be submitted in writing to the presiding officer who determines whether the question is relevant and whether time limits permit it to be presented for answer. Any further procedural rules needed for the proper conduct of the meetings will be announced by the presiding officer.

A transcript of each meeting will be made and the entire record of the meetings, including the transcript, will be retained by DOT and made available for inspection in the DOT Open File in the Office of Intermodal Transportation, P–10, Room 9216, 400 Seventh Street, SW., Washington, D.C. 20590 between 9:00 a.m. and 5:30 p.m. local time, Monday through Friday, except holidays.

V. Establishment of an Open File

An Open File has been established as of this date which will remain in existence until October 31, 1980. Information pertinent to the Truck Size and Weight Study can be submitted to the Open File at any time during this period. Entries to the Open File will be reviewed by Department of Transportation staff working on the Study.

Address submittals to the Open File to: Truck Size and Weight Study Open File, Office of Intermodal Transportation, P–10, Room 9216, Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590.

Issued in Washington, D.C. on May 24, 1979.

John J. Fearnsides,

Deputy Under Secretary.

[FR Doc. 79–17418 Filed 6–4–79; 8:45 am]

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Reader Aids

Federal Register

Vol. 44, No. 109

Tuesday, June 5, 1979

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

Federal Register, Daily Issue:

202-783-3238	Subscription orders (GPO)
202-275-3054	Subscription problems (GPO)
	"Dial-a-Reg" (recorded summary of highlighted documents appearing in next day's issue):
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312-663-0884	Chicago, Ill.
213-688-6694	Los Angeles, Calif.
202-523-3187	Scheduling of documents for publication
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Code of Federal Regulations (CFR):

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523-5227	Finding Aids

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523-5235	Public Papers of the Presidents, and Weekly Compilation of Presidential Documents

Public Laws:

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-5282	Statutes at Large, and Index
275-3030	Slip Law Orders (GPO)

Other Publications and Services:

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523-3408	Automation
523-4534	Special Projects

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/OHMO	USDA/FSQS		DOT/OHMO	USDA/FSQS
DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
CSA	MSPB*/OPM*		CSA	MSPB*/OPM*
	LABOR			LABOR
	HEW/FDA			HEW/FDA

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

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

***NOTE: As of January 1, 1979, the Merit Systems Protection Board (MSPB) and the Office of Personnel Management (OPM) will publish on the Tuesday/Friday schedule. (MSPB and OPM are successor agencies to the Civil Service Commission.)**

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

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—

29642 5–22–79 / Irish potatoes grown in the southeastern States; handling regulation

LABOR DEPARTMENT

19400 4–3–79 / Summary Annual Report furnished participants and beneficiaries of Employee Benefit Plans

NUCLEAR REGULATORY COMMISSION

17479 3–22–79 / Discontinued licensed activities; timely notification provisions

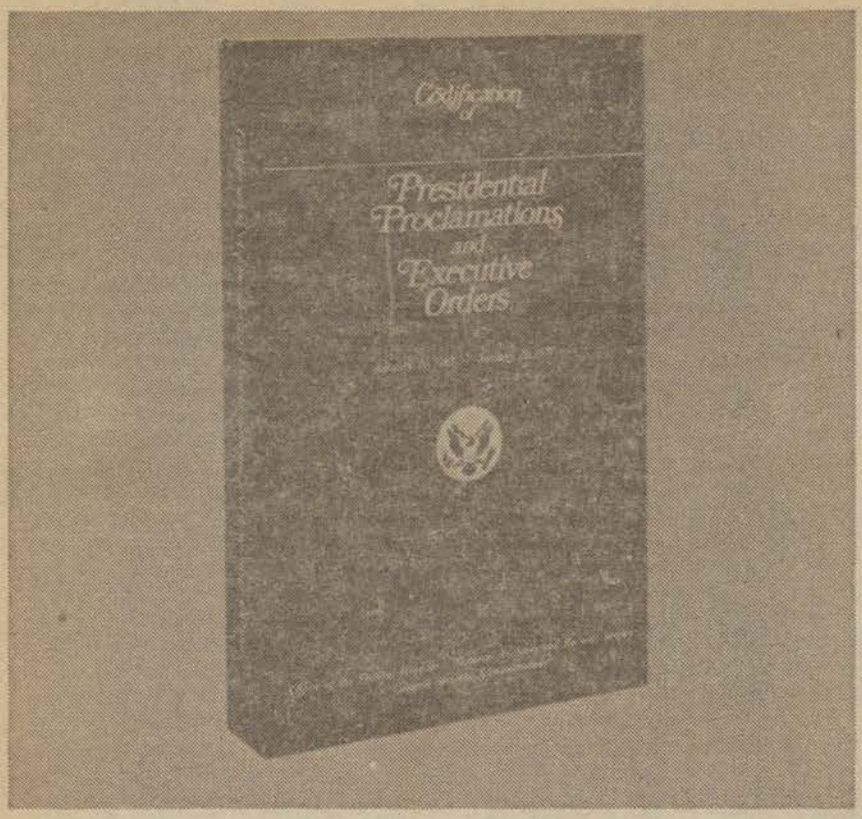
30076 5–24–79 / Timely notification of discontinued licensed activities

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last Listing May 31, 1979

NEW PUBLICATION NOW AVAILABLE



For those of you who must keep informed about Presidential proclamations and Executive orders, there is now a convenient reference source that will make researching certain of these documents much easier.

Arranged by subject matter, this first edition of the *Codification* contains proclamations and Executive orders that were issued or amended during the period January 20, 1961, through January 20, 1977, and which have a continuing effect on the public. For those documents that have been affected by other proclamations or Executive orders, the codified text presents the amended version. Therefore, a reader can use the *Codification* to determine the latest text of a document without having to "reconstruct" it through extensive research.

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