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Tuesday
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66563 **Family Week, 1979, National** Presidential proclamation

66565 **Labor-Management Relations Program, Exclusion From the Federal** Executive order

66695 **Public Service Education Program** HEW/OE announces closing date for transmittal of applications for fiscal year 1980; apply by 1-8-80

66582 **Community Development** Neighborhood Reinvestment Corporation issues general information on the organization and channeling of functions, and provides general program information for grant applicants; effective 4-25-79

66697 **Residency Training in General Internal Medicine or General Pediatrics** HEW/PHS announces applications for fiscal year 1980 grants; applications by 1-4-80

66590 **Iranian Assets Control** Treasury/Foreign Assets Control amends rules by adding general licenses to transfer of certain funds, transactions incident to exportations, shipments of certain types of blocked property, and the transfer of non-blocked funds to U.S. banks or other U.S. persons solely for certain obligations payments; effective 11-14-79

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66724 School Liability VA publishes new and revised statements of policy and procedures for determining whether an educational institution may be held liable for an overpayment of educational assistance made to a veteran or eligible person; effective 3–8–79

66616 Medical X-Ray Exposure of the Human Embryo and Fetus HEW/FDA proposes procedures and recommendations for minimization of medical radiation exposure of women of childbearing potential; comments by 3–20–80

66623 Veterans Education VA proposes rules regarding travel expenses for counseling purposes; comments by 12–20–79

66626 Nondiscrimination on the Basis of Sex HEW/Sec'y withdraws proposed rules regarding education programs and activities receiving or benefiting from Federal financial assistance

66621 Electrical Standards Labor/OSHA extends comment period and corrects proposed rule; comments and hearing requests by 12–31–79

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Title 3—

The President

Proclamation 4703 of November 16, 1979

National Family Week, 1979

By the President of the United States of America

A Proclamation

We are a nation of families. This country was settled and built by families of all kinds. A source of strength in our past, families are America's hope for the future. All families are important, but the extended family, the foster family and the adoptive family play a special role by relieving the isolation of those who lack the comfort of a loving nuclear family.

Families are the most universal and enduring element in human existence. A family is a reservoir of shared experiences, shared joys and sorrows and, most of all, shared love that spans generations and distances.

As we come together at this Thanksgiving season, we gather with our families to express our gratitude. Our family circles expand to welcome and include others in the warmth of the holiday season. It is a time for all of us to cherish those we love and to celebrate family life.

We must continue this attention to families all year round, however. Through the coming White House Conference on Families, our new Office on Families, and through new approaches that would encourage more adoptive and foster parents, governments and citizens together can learn to become better family advocates of the American family. We must nurture the family as it has nurtured us.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, in accordance with a joint resolution of Congress, do hereby proclaim the week of November 18, 1979, as National Family Week and call upon all the American people to observe this week with appropriate activities in their homes and communities.

IN WITNESS WHEREOF, I have hereunto set my hand this sixteenth day of November, in the year of our Lord nineteen hundred seventy-nine, and of the Independence of the United States of America the two hundred and fourth.

Jimmy Carter

[FR Doc. 79-35903
Filed 11-16-79; 2:57 pm]
Billing code 3195-01-M

Executive Order 12171 of November 19, 1979

Exclusions From the Federal Labor-Management Relations Program

By the authority vested in me as President by the Constitution and statutes of the United States of America, including Section 7103(b) of Title 5 of the United States Code, and in order to exempt certain agencies or subdivisions thereof from coverage of the Federal Labor-Management Relations Program, it is hereby ordered as follows:

1–1. *Determinations.*

1–101. The agencies or subdivisions thereof set forth in Section 1–2 of this Order are hereby determined to have as a primary function intelligence, counterintelligence, investigative, or national security work. It is also hereby determined that Chapter 71 of Title 5 of the United States Code cannot be applied to those agencies or subdivisions in a manner consistent with national security requirements and considerations. The agencies or subdivisions thereof set forth in Section 1–2 of this Order are hereby excluded from coverage under Chapter 71 of Title 5 of the United States Code.

1–102. Having determined that it is necessary in the interest of national security, the provisions of Chapter 71 of Title 5 of the United States Code are suspended with respect to any agency, installation, or activity listed in Section 1–3 of this Order. However, such suspension shall be applicable only to that portion of the agency, installation, or activity which is located outside the 50 States and the District of Columbia.

1–2. *Exclusions.*

1–201. The Information Security Oversight Office, General Services Administration.

1–202. The Federal Research Division, Research Services, the Library of Congress.

1–203. Agencies or subdivisions of the Department of the Treasury:

(a) The U.S. Secret Service.

(b) The U.S. Secret Service Uniformed Division.

(c) The Office of Special Assistant to the Secretary (National Security).

(d) The Office of Intelligence Support (OIS).

(e) The Office of the Assistant Secretary (Enforcement and Operations) (OEO).

(f) The Office of Criminal Enforcement, Bureau of Alcohol, Tobacco, and Firearms.

(g) The Office of Investigations, U.S. Customs Service.

(h) The Criminal Investigation Division, Internal Revenue Service.

1–204. Agencies or subdivisions of the Department of the Army, Department of Defense:

(a) Office of Assistant Chief of Staff for Intelligence.

(b) U.S. Army Intelligence and Security Command.

(c) U.S. Army Foreign Science and Technology Center.

(d) U.S. Army Intelligence Center and School.

(e) U.S. Army Missile Intelligence Agency.

(f) Foreign Intelligence Office, U.S. Army Missile Research and Development Command.

1–205. Agencies or subdivisions of the Department of the Navy, Department of Defense:

(a) Office of Naval Intelligence.

(b) Naval Intelligence Command Headquarters and Subordinate Commands.

(c) Headquarters, Naval Security Group Command.

(d) Naval Security Group Activities and Detachments.

(e) Fleet Intelligence Center, Europe and Atlantic (FICEURLANT).

(f) Fleet Intelligence Center, Pacific (FICPAC).

(g) Units composed primarily of employees engaged in the operation, repair, and/or maintenance of "off line" or "on line" cryptographic equipment.

(h) Units composed primarily of employees of naval telecommunications activities in positions which require a cryptographic authorization.

1-206. Agencies or subdivisions of the Department of the Air Force, Department of Defense:

(a) Office of Space Systems, Office of the Secretary of the Air Force.

(b) Office of Special Projects, Office of the Secretary of the Air Force.

(c) Engineering Office, Space and Missile Systems Organization (Air Force Systems Command).

(d) Program Control Office, Space and Missile Systems Organization (Air Force Systems Command).

(e) Detachment 3, Space and Missile Systems Organization (Air Force Systems Command).

(f) Defense Dissemination Systems Program Office, Space and Missile Systems Organization (Air Force Systems Command).

(g) Satellite Data System Program Office, Space and Missile Systems Organization (Air Force Systems Command).

(h) Project Office at El Segundo, California, Office of the Secretary of the Air Force.

(i) Project Office at Patrick Air Force Base, Florida, Office of the Secretary of the Air Force.

(j) Project Office at Fort Myer, Virginia, Office of the Secretary of the Air Force.

(k) Air Force Office of Special Investigations.

(l) U.S. Air Force Security Service.

(m) Foreign Technology Division, Air Force Systems Command, Wright-Patterson Air Force Base.

(n) 1035 Technical Operations Group (Air Force Technical Applications Center), Air Force Systems Command, and subordinate units.

(o) 3480 Technical Training Wing, Air Training Command, Goodfellow Air Force Base, Texas.

1-207. The Defense Intelligence Agency, Department of Defense.

1-208. The Defense Investigative Service, Department of Defense.

1-209. The Office of Enforcement and the Office of Intelligence, including all domestic field offices and intelligence units, of the Drug Enforcement Administration, Department of Justice.

1-210. Offices of the Assistant Secretary for Defense Programs, Department of Energy.

1-211. Offices within the Agency for International Development:

(a) The Immediate Office of the Auditor General.

(b) The Office of Inspections and Investigations.

(c) The Office of Security.

(d) The Office of the Area Auditor General/Washington.

1-3. *Units outside the 50 States and the District of Columbia.*

1-301. The Drug Enforcement Administration, Department of Justice.

Jimmy Carter

THE WHITE HOUSE,
November 19, 1979.

[FR Doc. 79-36046
Filed 11-19-79; 1:52 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 44, No. 225
Tuesday, November 20, 1979

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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 213

Excepted Service; Department of Agriculture

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment changes the title of the Schedule C position in the Department of Agriculture of Private Secretary to the Deputy Assistant Secretary for International Affairs and Commodity Programs to Private Secretary to the Deputy Under Secretary for International Affairs and Commodity Programs to reflect the current title of the superior.

EFFECTIVE DATE: August 22, 1979.

FOR FURTHER INFORMATION CONTACT:
On position authority: William Bohling, Office of Personnel Management, (202) 632–4533.
On position content: Phyllis Mowery, Department of Agriculture, (202) 447–7131.

Office of Personnel Management.
Beverly M. Jones,
Issuance System Manager.

Accordingly, 5 CFR 213.3313(a)(13) is amended as set out below:

§ 213.3313 Department of Agriculture.

(a) *Office of the Secretary.* * * *
(13) One Private Secretary to the Deputy Under Secretary for International Affairs and Commodity Programs.

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

[FR Doc. 79-35796 Filed 11-19-79; 8:45 am]
BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of Agriculture

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Confidential Assistant to the Administrator, Federal Grain Inspection Service because it is confidential in nature. Appointments may be made without examination by the Office of Personnel Management.

EFFECTIVE DATE: August 29, 1979.

FOR FURTHER INFORMATION CONTACT:
On position authority: William Bohling, Office of Personnel Management, (202) 632–4533.
On position content: Phyllis Mowrey, Department of Agriculture, (202) 447–7131.

Office of Personnel Management.
Beverly M. Jones,
Issuance System Manager.

Accordingly, 5 CFR 213.3313(u)(2) is amended as set out below:

§ 213.3313 Department of Agriculture.

* * * * *

(u) *Federal Grain Inspection Service.* * * *
(2) Three Confidential Assistants to the Administrator.

* * * * *

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

[FR Doc. 79-35797 Filed 11-19-79; 8:45 am]
BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of Commerce

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Confidential Assistant to the Assistant Secretary for Industry and Trade, Department of Commerce, because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: August 24, 1979.

FOR FURTHER INFORMATION CONTACT:
On position authority: William Bohling, Office of Personnel Management, (202) 632–4533.
On position content: Judy Hilton, Department of Commerce (202) 377–3453.

Office of Personnel Management.
Beverly M. Jones,
Issuance System Manager.

Accordingly, 5 CFR 213.3314(m)(1) is amended as set out below:

§ 213.3314 Department of Commerce.

* * * * *

(m) *Office of the Assistant Secretary for Industry and Trade.*
(1) One Private Secretary and four Confidential Assistants to the Assistant Secretary.

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

[FR Doc. 79-35798 Filed 11-19-79; 8:45 am]
BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of Commerce

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Special Assistant to the Secretary of Commerce because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: August 14, 1979.

FOR FURTHER INFORMATION CONTACT:
On position authority: William Bohling, Office of Personnel Management, (202) 632–4533.
On position content: Bea Nelson, Department of Commerce, (202) 377–3453.

Office of Personnel Management.
Beverly M. Jones,
Issuance System Manager.

Accordingly, 5 CFR 213.3314(a)(21) is amended as set out below:

§ 213.3314 Department of Commerce.

(a) *Office of the Secretary.* * * *

(21) One Assistant and one Special Assistant to the Secretary.

* * * * *

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

[FR Doc. 79-35799 Filed 11-19-79; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Community Services Administration

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment changes the title of Confidential Staff Assistant to the Assistant Director for Management Community Services Administration, to Confidential Staff Assistant to the Assistant Director for Community Action to reflect an organizational transfer.

EFFECTIVE DATE: August 31, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, (202) 632–4533.

On position content: Felix A. Gloden, Community Services Administration, (202) 254–5220.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3373(m)(2) is amended as set out below:

§ 213.3373 Community Services Administration.

* * * * *

(m) *Office of Management.* * * *

(2) One Confidential Staff Assistant to the Assistant Director for Community Action.

* * * * *

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

[FR Doc. 79-35800 Filed 11-19-79; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of Energy

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one position of Staff Assistant to the Secretary of Energy because it is confidential in nature. Appointments may be made to these positions without examination by the Office of Personnel Management.

EFFECTIVE DATE: September 13, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, (202) 632–4533.

On position content: Robert Willyerd, Department of Energy, (202) 633–8234.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3331(a)(6) is amended as set out below:

§ 213.3331 Department of Energy.

(a) *Office of the Secretary.* * * *

(6) One Assistant, one Confidential Assistant (Receptionist) and one Staff Assistant to the Secretary.

* * * * *

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

[FR Doc. 79-35801 Filed 11-19-79; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of Energy

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The following positions in the Dept. of Energy are excepted from the competitive service under Schedule C because they are confidential in nature: one position of Staff Assistant to the Secretary and one position of Staff Assistant to the Under Secretary. Appointments may be made to these positions without examination by the Office of Personnel Management.

EFFECTIVE DATE: August 17, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, (202) 632–4533.

On position content: Robert Willyerd, Department of Energy, (202) 633–8234.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3331(a) (3) and (7) are amended as set out below:

§ 213.3331 Department of Energy.

(a) *Office of the Secretary.* * * *

(3) One Confidential Assistant (Secretary) and one Staff Assistant to the Under Secretary. * * *

(7) Three Assistants and one Staff Assistant to the Secretary.

* * * * *

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

[FR Doc. 79-35802 Filed 11-19-79; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Executive Office of the President

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment changes the title of two Secretaries to the Director to two Executive Assistants to the Director, Executive Office of the President, to more appropriately reflect the duties of the positions.

EFFECTIVE DATE: August 6, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, (202) 632–4533.

On position content: Martha Smith, Executive Office of the President, (202) 395–3765.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3303(a)(1) is amended and (a)(4) is added as set out below:

§ 213.3303 Executive Office of the President.

(a) *Office of Management and Budget.*

(1) Three Secretaries to the Director. * * *

(4) Two Executive Assistants to the Director.

* * * * *

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

[FR Doc. 79-35803 Filed 11-19-79; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Federal Emergency Management Agency.

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Special Assistant to the Administrator, U.S. Fire Administration, Federal Emergency Management Agency, because it is confidential in nature. Appointments may be made to these positions without examination by the Office of Personnel Management.

EFFECTIVE DATE: May 31, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, (202) 632–4533.

On position content: Albert Maltz, Federal Emergency Management Agency, (202) 235–2473.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3395(b)(1) is added as set out below:

§ 213.3395 Federal Emergency Management Agency.

* * * * *

(b) *U.S. Fire Administration.* (1) One Special Assistant to the Administrator.

* * * * *

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

[FR Doc. 79–35804 Filed 11–19–79; 8:45 am]

BILLING CODE 6325–01–M

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5 CFR Part 213

Excepted Service; Federal Home Loan Bank Board

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment changes the title of a Secretary (Steno) to the Special Assistant to the Chairman to Secretary (Steno) to the Assistant to the Chairman, Federal Home Loan Bank Board, to reflect the current title of the superior.

EFFECTIVE DATE: September 10, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, (202) 632–4533.

On position content: Patricia Schambach, Federal Home Loan Bank Board (202) 377–6057.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3354(m) is amended as set out below:

§ 213.3354 Federal Home Loan Bank Board.

* * * * *

(m) One Secretary (Steno) to the Assistant to the Chairman.

* * * * *

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

[FR Doc. 79–35805 Filed 11–19–79; 8:45 am]

BILLING CODE 6325–01–M

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5 CFR Part 213

Excepted Service; Federal Labor Relations Authority

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one position of Secretary (Typing) to the General Counsel, Federal Labor Relations Authority, because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: June 26, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, (202) 632–4533.

On position content: Gilbert Miller, Federal Labor Relations Authority, (202) 632–6880.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3392 ((b)(1)) is added as set out below:

§ 213.3392 Federal Labor Relations Authority.

* * * * *

(b) *Office of the General Counsel.*

* * *

(1) One Secretary (Typing) to the General Counsel.

* * * * *

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

[FR Doc. 79–35806 Filed 11–19–79; 8:45 am]

BILLING CODE 6325–01–M

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5 CFR Part 213

Excepted Service; Department of Health, Education, and Welfare

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment continues the exception under Schedule B, without time limitation, for participants in midcareer programs in the Department of Health, Education, and Welfare. All other conditions remain the same. This amendment is authorized because it continues to be impracticable to competitively examine for these positions.

EFFECTIVE DATE: June 26, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–4533.

On position content: Ann Elledge, Department of Health, Education, and Welfare, 202–245–2100.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3216(e) is amended as set out below:

§ 213.3216 Department of Health, Education, and Welfare.

* * * * *

(e) Seventy-five positions, not in excess of GS–13, of a professional or analytical nature when filled by persons, other than college faculty members or candidates working toward college degrees, who are participating in midcareer development programs authorized by Federal statute or regulation, or sponsored by private nonprofit organizations, when a period of work experience is a requirement for completion of an organized study program. Employment under this authority shall not exceed 1 year.

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

[FR Doc. 79–35807 Filed 11–19–79; 8:45 am]

BILLING CODE 6325–01–M

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5 CFR Part 213

Excepted Service; Department of Housing and Urban Development

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C three positions: One Deputy Executive Assistant and two Special Assistants to the Secretary (Operations), Department of Housing and Urban Development, because they are confidential in nature. Appointments may be made to these positions without examination by the Office of Personnel Management.

EFFECTIVE DATE: April 23, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority contact: William Bohling, Office of Personnel Management, (202) 632–4533.

On position content contact: Ms. Betty Sullivan, Department of Housing and Urban Development, (202) 755–5749.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3384(a)(71) is amended as set out below:

§ 213.3384 Department of Housing and Urban Development.

(a) *Office of the Secretary.* * * *

(71) One Secretary (Steno) to the Executive Assistant to the Secretary (Operations), one Deputy Executive Assistant to the Secretary (Operations) and six Special Assistants to the Secretary (Operations).

* * * * *

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

[FR Doc. 79-35808 Filed 11-19-79; 8:45 am]

BILLING CODE 6325-01-M

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5 CFR Part 213

Excepted Service; Department of Housing and Urban Development

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment changes the title of Executive Assistant to the Deputy Assistant Secretary for Insured and Direct Loan Programs, Department of Housing and Urban Development, to Executive Assistant to the Deputy Assistant Secretary for Multifamily Housing Programs to reflect the current title of the superior.

EFFECTIVE DATE: June 28, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, (202) 632–4533.

On position content: Linda Stephens, Department of Housing and Urban Development, (202) 755–7844.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3384(b)(19) is amended and (b)(21) is added as set out below:

§ 213.3384 Department of Housing and Urban Development.

* * * * *

(b) *Office of the Assistant Secretary for Housing—Federal Housing Commissioner.* * * *

(19) One Special Assistant to the Deputy Assistant Secretary for Insured and Direct Loan Programs. * * *

(21) One Executive Assistant to the Deputy Assistant Secretary for Multifamily Housing Programs.

* * * * *

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

[FR Doc. 79-35809 Filed 11-19-79; 8:45 am]

BILLING CODE 6325-01-M

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5 CFR Part 213

Excepted Service; Department of Justice

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: Positions, other than those providing routine clerical and administrative support, in offices of the United States Trustees, Department of Justice, are excepted from the competitive service under Schedule B because it is impracticable to hold a competitive examination for them.

EFFECTIVE DATE: November 2, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–4533.

On position content: Lee Probst, Department of Justice, 202–633–3351.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3210(d) is added to read as follows:

§ 213.3210 Department of Justice.

* * * * *

(d) Until March 31, 1984, positions, other than those providing routine clerical and administrative support, on the staff of the offices of United States Trustees. Terms of service under this authority shall be established in accordance with provisions of the Bankruptcy Reform Act of 1978 and subsequent applicable legislation.

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

[FR Doc. 79-35810 Filed 11-19-79; 8:45 am]

BILLING CODE 6325-01-M

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5 CFR Part 213

Excepted Service; Department of Justice

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Special Assistant to the Associate Attorney General, Department of Justice, because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: August 28, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, (202) 632–4533.

On position content: Bobbie Gross, Department of Justice, (202) 633–1846.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3310(a)(12) is amended as set out below:

§ 213.3310 Department of Justice.

(a) *Office of the Attorney General.*

* * *

(12) One Confidential Assistant and one Special Assistant to the Associate Attorney General.

* * * * *

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

[FR Doc. 79-35811 Filed 11-19-79; 8:45 am]

BILLING CODE 6325-01-M

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5 CFR Part 213

Excepted Service; Department of Labor

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one position of Special Assistant to the Secretary of Labor because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: July 20, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, (202) 632–4533.

On position content: Joyce Goins, Department of Labor, (202) 532–6555.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3315(a)(1) is amended as set out below:

§ 213.3315 Department of Labor.

(a) *Office of the Secretary.* (1) One Private Secretary, one Secretary, Five Special Assistants and one Confidential Assistant to the Secretary.

* * * * *

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

[FR Doc. 79-35812 Filed 11-19-79; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Merit Systems Protection Board

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment changes the titles of certain positions at the Merit Systems Protection Board to reflect the current title of the superiors.

EFFECTIVE DATE: May 8, 1979.

FOR FURTHER INFORMATION:

On position authority contact: William Bohling, Office of Personnel Management, 202–632–4533.

On position content contact: Pat Ealey, Merit Systems Protection Board, 202–632–5370.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3390 (a) and (b) are amended as set out below:

§ 213.3390 Merit Systems Protection Board.

(a) One Attorney-Advisor (General), one Special Assistant and one Staff Assistant (Steno) to the Chair.

(b) One Policy Advisor and one Administrative Assistant to the Vice Chair.

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

[FR Doc. 79-35813 Filed 11-19-79; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; National Transportation Safety Board

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The title of the position, Secretary (Steno) to the Chairman, National Transportation Board, is changed to Secretary (Typing) to the Chairman because the new title more accurately describes the duties of the position. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: August 22, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, (202) 632–4533.

On position content: Larry Upson, National Transportation Safety Board, (202) 472–6166.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3396(a)(3) is amended as set out below:

§ 213.3396 National Transportation Safety Board.

(a) *Office of the Chairman.* * * *

(3) One Secretary (Steno) and one Secretary (Typing) to the Chairman.

* * * * *

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

[FR Doc. 79-35814 Filed 11-19-79; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Office of Personnel Management.

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule B up to eight positions of Associate Director at grade GS–13 and GS–14 at Executive Seminar Centers of the Office of Personnel Management because competitive examination for these positions is impracticable. Appointments under this authority may not exceed 3 years, and no more than half of the authorized Associate Director positions at any one center may be filled by Schedule B appointees.

EFFECTIVE DATE: June 22, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority contact: William Bohling, Office of Personnel Management, 202–632–4533.

On position content contact: Michael Poole, Office of Personnel Management, 202–632–4648.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3290(a) is added as set out below:

§ 213.3290 Office of Personnel Management.

* * * * *

(a) Not to exceed eight positions of Associate Director at the Executive Seminar Centers at grades GS–13 and GS–14. Appointments may be made for any period up to 3 years, and may be extended without prior approval for any individual. Not more than half of the authorized faculty positions at any one Executive Seminar Center may be filled under this authority.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–58 Comp., p. 218)

[FR Doc. 79-35815 Filed 11-19-79; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of State

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Special Assistant to the Assistant Secretary for East Asian and Pacific Affairs, Department of State, because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: August 22, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, (202) 632–4533.

On position content: Frances Jones, Department of State, (202) 632–5350.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3304(j)(2) is amended as set out below:

§ 213.3304 Department of State.

* * * * *

(j) *Office of the Assistant Secretary for East Asian and Pacific Affairs.* * * *

(2) Two Special Assistants to the Assistant Secretary.

* * * * *

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

[FR Doc. 79-35816 Filed 11-19-79; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Parts 213 and 338

Excepted Service; Qualification Requirements (General)

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This rule amends the nepotism regulation established under E.O. 10577, "Amending the Civil Service Rules and Authorizing a New Appointment System for the Competitive Service" to allow for the appointment of a son or daughter in the same agency where a parent is

employed when certain conditions are satisfied under that agency's merit staffing plan.

EFFECTIVE DATE: November 15, 1979.

FOR FURTHER INFORMATION CONTACT: Thomas W. Smith, (202) 632–6030.

SUPPLEMENTARY INFORMATION: On July 13, 1979, the Office of Personnel Management (OPM) published proposed rules (44 FR 40894) to ease restrictions on an applicant's ability to gain summer employment in an agency which employs a parent of that applicant. The invitation to the public to comment on this proposal resulted in 16 responses. Nine of these responses expressed unqualified approval of the proposal. Responses which offered suggestions for improving the proposal are discussed below.

One Federal agency argued that the proposed rules would increase the potential for merit abuse and suggested that an agency be allowed to appoint the children of its civilian employees and members of its uniformed service only at installations located in remote areas when there are no other eligibles available. An examination of the problems related to nepotism had let OPM to believe that a solution could be found that would eliminate abuses in selection and yet not require such a wholesale exclusion of candidates as called for by this suggestion. Given the requirements of the competitive process, allowing children of agency employees to be involved in that competition seems more fair than having them wait until all other applicants in a remote location have been considered or, if the location is not remote, eliminating them from competition altogether.

Comments were received from four people who recommended that the easing of restrictions on the hiring of sons and daughters be expanded to include student programs authorized under the provisions of E.O. 12015. These student programs were not included in the proposed changes because, unlike the participants in temporary summer and student programs covered by these changes, the students in programs authorized by E.O. 12015 can be converted to career service appointments. This converion authority clearly sets these programs apart from the other student and summer programs and is the reason for retaining restrictions on the hiring of sons and daughters under programs authorized by E.O. 12015. The OPM may authorize exceptions to these rules when it determines that a shortage of applicants exists for a particular occupation. There are editorial changes in the final rule to eliminate the possibility of misinterpreting the proposed rule's reference to programs under E.O. 12015.

Two commenters called for eliminating the requirement that children of agency employees must have a higher rating than all other available eligibles. Permitting sons and daughters to be selected when their scores are the same as those of other candidates offers the possibility of real or apparent family influence entering into the process. When a selection is to be made from among equals, and a son or daughter is selected, rightly or wrongly, the action would be suspect. This suspicion would lead to renewed charges of favoritism in summer employment. We therefore did not accept this suggestion.

Two other commenters offered opposing views on the degree to which recruitment should be required. One writer felt that the widest possible range of publicity should be required including contact with minority and women's organizations. The other felt that, given the high ratio of applicants to jobs each summer, the publicity called for in the proposed rules would only lead to unnecessary administrative paperwork by Federal personnel offices and disappointment among applicants. These opposing views indicate that the proposal strikes a balance between a concern for open competition and a concern for counterproductive paperwork and frustrated applicants.

Another comment suggested the need to clarify in the Federal Personnel Manual the circumstances under which the ranking of candidates is not appropriate and qualified candidates are considered on a strictly random basis. Guidelines for examining under these circumstances will be included in revisions of appendix J of Federal Personnel Manual chapter 332.

Another change from the proposed rule appears in paragraph (d)(4) of § 213.3101 of the final rule in order to clarify the fact that agencies have already been delegated authority to appoint the severely handicapped or mentally retarded under § 213.3102(t) and (u). The proposed rule implied that such appointments would have to be approved by OPM on an individual basis.

The Director of the Office of Personnel Management finds that, in order to provide for continuity of program operations, good cause exists for shortening the 30-day delay of effectiveness for final rules required by 5 U.S.C. 553(d).

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, the Office of Personnel Management is amending Title 5 of the Code of Federal Regulations as set forth below:

(1) Section 213.3101 is revised to read as follows:

§ 213.3101 Positions other than those of a confidential or policy-determining character for which it is not practicable to examine.

(a) The positions enumerated in §§ 213.3102 to 213.3199 are positions other than those of a confidential or policy-determining character for which it is not practicable to examine and which are excepted from the competitive service and constitute Schedule A.

(b) An agency (including a military department) may not appoint the son or daughter of a civilian employee of that agency, or the son or daughter of a member of its uniformed service, to a position listed in Schedule A for student employment within the United States.

(c) An agency (including a military department) may appoint the son or daughter of a civilian employee of that agency or the son or daughter of a member of its uniformed service to a summer position when:

(1) The opportunities for employment have been publicized in the summer announcement, OPM regional and/or area office supplements, or through Federal job information centers and State Employment Services for a minimum 2-week period;

(2) There are no eligibles available with the same or higher rating under merit staffing plans for which the ranking criteria satisfy job-relatedness requirements of FPM Supplement 271–2, "Tests and Other Applicant Appraisal Procedures," or for which ranking is not appropriate and qualified candidates are considered on a strictly random basis; and

(3) The appointment is not prohibited by section 3110 of title 5, United States Code, or Part 310 of this chapter relating to the employment of relatives.

(d) Paragraphs (b) and (c) do not restrict the appointment of persons

(1) Who are eligible for placement assistance under the OPM's Displaced Employee (DE) Program;

(2) Who are employed to meet urgent needs resulting from an emergency posing an immediate threat to life or property; or

(3) Who are members of families which are eligible to receive financial assistance under a public welfare program or the total income of which in relation to family size does not exceed

limits established by the OPM and published in the Federal Personnel Manual; or

(4) Who are severely physically handicapped or mentally retarded when appointed under § 213.3102 (t) or (u).

(e) An agency may appoint for summer employment within the United States in positions listed in Schedule A only in accordance with the terms of OPM's summer employment program. This restriction does not apply to positions that are excepted only when filled by particular types of individuals.

(f) In this section "summer employment" means any employment beginning after May 12 which will end before October 1 of the same year. "Student employment" means the employment of persons who are enrolled or who have been accepted for enrollment, on a substantially full-time basis, as resident students of a secondary school or of an institution of higher learning; a resident student, for this purpose, is a student in actual physical attendance at a school as distinguished from a correspondence student.

(2) Section 338.202 is revised to read as follows:

§ 338.202 Restriction on sons and daughters.

(a) An agency (including a military department) may appoint the son or daughter of a civilian employee of that agency, or a son or daughter of a member of its uniformed service for student or summer employment within the United States when:

(1) The position is filled from a list of eligibles established under an examination conducted by the Office of Personnel Management and

(2) There is no other available eligible with the same or higher rating, and

(3) The appointment is not prohibited by section 3110 of title 5, United States Code, or Part 310 of this chapter relating to the employment of relatives.

(b) An agency (including a military department) may appoint the son or daughter of a civilian employee of that agency, or the son or daughter of a member of its uniformed service for summer employment within the United States when:

(1) The position is filled under agency-developed staffing plans not requiring a summer written test;

(2) The opportunities for employment have been publicized in the summer announcement, OPM regional and/or area office supplements, or through Federal job information centers and State Employment Services for a minimum 2-week period;

(3) There are no eligibles available with the same or higher rating under merit staffing plans for which the ranking criteria satisfy job-relatedness requirements of FPM Supplement 271–2, "Tests and Other Applicant Appraisal Procedures," or for which ranking is not appropriate and qualified candidates are considered on a strictly random basis; and

(4) The appointment is not prohibited by section 3110 of title 5, United States Code, or Part 310 of this chapter relating to the employment of relatives.

(c) Paragraphs (a) and (b) of this section do not restrict the appointment of persons:

(1) Who are eligible for placement assistance under the OPM's Displaced Employee (DE) Program, or

(2) Who are employed to meet urgent needs resulting from an emergency posing an immediate threat to life or property, or

(3) Who are members of families which are eligible to receive financial assistance under a public welfare program or the total income of which in relation to family size does not exceed limits established by the OPM and published in the Federal Personnel Manual.

(d) An agency (including a military department) may not appoint the son or daughter of a civilian employee of that agency, or the son or daughter of a member of its uniformed service for student employment in programs conducted under the provisions of E.O. 12015 for which noncompetitive conversion is authorized. Exceptions based on difficulty in recruiting for certain occupations may be approved only by OPM.

(e) In this section "summer employment" means any employment beginning after May 12 which will end before October 1 of the same year. "Student employment" means the employment of persons who are enrolled or who have been accepted for enrollment, on a substantially full-time basis, as resident students of a secondary school or of an institution of higher learning; a resident student, for this purpose, is a student in actual physical attendance at a school, as distinguished from a correspondence student.

* * * * *

(5 U.S.C. 3301, 3302, E.O. 10577, 3 CFR 1954–1958 comp., p. 218)

[FR Doc. 79–35793 Filed 11–19–79; 8:45 am]

BILLING CODE 6325–01–M

5 CFR Part 302

Employment in the Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This action exempts attorney positions from normal procedural requirements for filling positions in the excepted service as a result of a Department of Justice ruling.

EFFECTIVE DATE: December 20, 1979.

FOR FURTHER INFORMATION CONTACT: On position authority: William Bohling, Office of Personnel Management, 202–632–4533.

SUPPLEMENTARY INFORMATION: Every appropriation act since 1943 has prohibited the Civil Service Commission (now the Office of Personnel Management) from examining the qualifications of individuals being hired as attorneys by the Government. Because of this restriction, attorney positions are excepted from the competitive service under Schedule A. The Department of Justice has now ruled that the statutory restriction also prohibits the Office of Personnel Management from prescribing use of a numerical rating system in the selection of attorneys. To implement this ruling, the regulations governing employment in the excepted service are amended to exempt attorney positions from the procedural requirements. Because this amendment is mandated by the Department of Justice, and the Office of Personnel Management has no discretion in carrying out the ruling, the Director has found that good cause exists for issuing this final rule without a public comment period.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 302.101 is amended by adding a new paragraph (c)(10) to read as follows:

§ 302.101 Positions covered by regulation.

* * * * *

(c) *Positions exempt from appointment procedures.* * * *

(10) Attorney positions.

* * * * *

[FR Doc. 79–35791 Filed 11–19–79; 8:45 am]

BILLING CODE 6325–01–M

5 CFR Part 315

Career and Career-Conditional Employment

AGENCY: Office of Personnel Management.

ACTION: Final regulations.

SUMMARY: These regulations implement Executive Order 12125, Competitive Status for Handicapped Federal Employees, which permits conversion of mentally retarded and severely physically handicapped employees from Schedule A excepted service appointment to competitive appointments.

EFFECTIVE DATE: December 20, 1979.

FOR FURTHER INFORMATION CONTRACT: William Bohling, Inservice Placement Branch, Staffing Services, Office of Personnel Management, 1900 E Street, NW, Washington, D.C. 20415, (202) 632–4533.

SPPPLEMENTARY INFORMATION:

Background

On June 26, 1979, the Office of Personnel Management published proposed rules to implement Executive Order 12125 (44 FR 37232) and invited comments from the public on its proposals. Comments were received from two organizations. As a result of comments and suggestions received during this period, the Office has modified the final regulations as discussed below. The Office will also supplement the regulations with guidance issued through the Federal Personnel Manual System which will address certain other concerns expressed during the public comment period. Some such guidance has already been issued, informing agencies of the requirements for processing excepted appointments and conversions and of a variation to the regulations permitting credit toward conversion for up to 2 years of service under temporary excepted appointments made before issuance of the proposed regulation.

Requirement for Conversion

A suggestion that the regulation clearly state that creditable service for conversion must be current and continuous and that conversion must be based on supervisory recommendation has been adopted.

Agency Discretion in Conversion

A suggestion that conversion be made mandatory upon completion of 2 years of satisfactory service was not adopted because such a provision would adversely affect certain employees, particularly those who do not yet meet competitive qualification requirements after 2 years but would do so with longer service. Guidance to be included in the Federal Personnel Manual does, however, state that there should be substantial justification for not recommending for conversion an employee who meets the minimum service requirement and who has demonstrated successful job performance.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Occordingly, the Office of Personnel Management is adding § 315.708 to Title 5, Code of Federal Regulations, as set forth below.

§ 315.708 Mentally retarded and severely physically handicapped employees serving under Schedule A appointments.

(a) *Coverage.* Employees appointed under §§ 213.3102(t) and 213.3103(u) of this chapter may have their appointments converted to career or career-conditional appointments when they:

(1) Complete 2 or more years of satisfactory service, without a break or more than 30 days, under nontemporary Schedule A appointments;

(2) Are recommended for conversion by their supervisors;

(3) Meet all requirements and conditions governing career and career-conditional appointment except those requirements concerning competitive selection from a register and medical qualifications; and

(4) Are converted without a break in service of one workday.

(b) *Tenure on conversion.* An employee converted under paragraph (a) of this section becomes:

(1) A career-conditional employee, except as provided in paragraph (b)(2) of this section;

(2) A career employee if he or she has completed 3 years of substantially continuous service in nontemporary appointments under § 213.3102(t) or § 213.3102(u) of this chapter, or has otherwise completed the service requirement for career tenure, or is excepted from it by § 315.201(c).

(c) *Acquisition of competitive status.* A person whose employment is converted to career or career-conditional employment under this section acquires a competitive status automatically on conversion.

(5 U.S.C. 3301, 3302; E.O. 12125)

[FR Doc. 79-35792 Filed 11-19-79; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 272

[Amendment No. 143]

Food Stamp Act of 1977; Outreach

Correction

In FR Doc. 79-34408 appearing on page 64386 in the issue of Tuesday, November 6, 1979, in the first column of page 64392, the eighth and ninth lines of paragraph (iii) of § 272.6(b)(3) should have read as follows:

"* * * relationship between health and diet; and other USDA food programs. State agencies shall promptly display posters and make the pamphlets * * *"

BILLING CODE 1505-01-M

Agricultural Marketing Service

7 CFR Part 989

Raisins Produced From Grapes Grown in California; Preliminary Free and Reserve Percentages for 1979–80 Crop Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule

SUMMARY: This rule designates preliminary marketing percentages for Natural (sun-dried) Seedless and Dipped and Related Seedless raisins from the 1979 production. The estimated 1979 production of these raisins is in excess of domestic and Western Hemisphere market needs, and the percentages are intended to tailor the supply to these needs. Excess supplies would be available primarily for export to approved countries outside the Western Hemisphere.

EFFECTIVE DATES: August 1, 1979 through July 31, 1980.

FOR FURTHER INFORMATION CONTACT: William J. Higgins, Chief, Specialty Crops Branch, Fruit and Vegetable Division, Agricultural Marketing Service, Washington, D.C. 20250, (202) 447–5053.

SUPPLEMENTARY INFORMATION: This rule designates preliminary free tonnage percentages for Natural (sun-dried) Seedless and Dipped and Related Seedless raisins of 65 percent and 56 percent, respectively, for the 1979–80 crop year. Also designated for that crop year are preliminary reserve tonnage percentages for these raisins of 35 percent and 44 percent, respectively. The 1979–80 crop year began August 1, 1979.

These designations would be pursuant to § 989.55 of the marketing agreement and Order No. 989, both as amended (7 CFR Part 989), regulating the handling of raisins produced from grapes grown in California, hereinafter referred to collectively as the "order". The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The proposal was unanimously recommended under § 989.54(b) by the Raisin Administrative Committee, established under the order as the agency to administer its terms and provisions under USDA supervision.

Interested persons were invited to submit written data, views, or arguments on the preliminary marketing percentages in a notice of proposed rulemaking published in the November 1, 1979, issue of the **Federal Register** (44 FR 62901). The comment period ended November 13, 1979, and none was received within the time specified.

In the notice of proposed rulemaking, free and reserve tonnage percentages were proposed for Dipped Seedless raisins. However, a recent Departmental action, based upon a recommendation of the Committee, changed the term "Dipped Seedless" to "Dipped and Related Seedless". Consequently, this final rule designates preliminary marketing percentages for Dipped and Related Seedless raisins, not Dipped Seedless raisins. The action changing the terms was published in the November 7, 1979, issue of the **Federal Register** (44 FR 64397).

Under § 989.54(b) of the order, the Committee is required to recommend on or before October 5, a preliminary free tonnage percentage for any varietal type of raisin for which a free tonnage has been computed which when applied to the estimated production of that varietal type would release 85 percent of the free tonnage for that varietal type—if the field price is firmly established. In accordance with § 989.54(a), the Committee computed free tonnages for Natural (sun-dried), Seedless and Dipped and Related Seedless raisins of 185,757 natural condition tons and 9,586 natural condition tons, respectively. The field price for each of these varietal types has been firmly established and the 1979 production of Natural (sun-dried) Seedless and Dipped and Related Seedless raisins is estimated to be 244,572 natural condition tons and 14,500 natural condition tons, respectively.

Eighth-five percent of the free tonnage quantity (185,757 tons) for Natural (sun-dried) Seedless would be 157,893 tons. Dividing this by the estimated production (244,572 tons) and rounding to the nearest full percent results in a preliminary free tonnage percentage of 65 percent. Eighty-five percent of the free tonnage quantity (9,586 tons) for Dipped and Related Seedless raisins would be 8,148 tons. Dividing 8,148 tons by the estimated production (14,500 tons) and rounding to the nearest full percent results in a preliminary free percentage of 56 percent.

Section 989.54(b) also provides that any difference between the preliminary or final free tonnage percentage and 100 percent should be the reserve percentage. Thus, the preliminary reserve percentages for Natural (sun-dried) Seedless and Dipped and Related Seedless would be 35 percent and 44 percent, respectively.

The preliminary free tonnage percentages would make 157,893 tons of the estimated 1979 production of Natural (sun-dried) Seedless raisins, and 8,148 tons of the Dipped and Related Seedless raisin production available for immediate sale in any marketing channel. No later than February 15, the Committee shall recommend free tonnage percentages which will tend to release the full free tonnage for those varietal types. By then, the Committee will have firmer estimates of the 1979 raisin production and the trade demand for raisins.

After consideration of all relevant matter presented, including that in the notice, the information and recommendation of the Committee, and other available information, it is found that designation, under § 989.55 of the order, of preliminary free and reserve percentages applicable to Natural (sun-dried) Seedless and Dipped and Related Seedless raisins, for the 1979–80 crop year, as hereinafter set forth, will tend to effectuate the declared policy of the act.

It is further found that good cause exists for not postponing the effective time of this action until 30 days after publication in the **Federal Register** (5 U.S.C. 553) in that: (1) The percentages designated herein for the 1979–80 crop year apply to all Natural (sun-dried) Seedless and Dipped and Related Seedless raisins acquired by handlers during that crop year; (2) handlers will be marketing these 1979 crop raisins soon, and must know what free and reserve percentages will be applicable to make marketing plans; (3) handlers are aware of this action as recommended by the Committee and require no additional time to comply; and (4) no useful purpose would be served by delaying this action.

Note.—This action has been reviewed under USDA criteria for implementing Executive Order 12044. A determination has been made that this action should be classified "significant". An impact analysis is available from William J. Higgins, (202) 447–5053.

Therefore, Subpart—Supplementary Regulations (7 CFR 989.202–989.232) is amended by adding a new § 989.233 reading as follows:

§ 989.233 Free and reserve percentages for the 1979–80 crop year.

The preliminary percentages of standard Natural (sun-dried) Seedless and Dipped and Related Seedless raisins acquired by handlers during the crop year beginning August 1, 1979, which shall be free tonnage and reserve tonnage, respectively, are designated as follows:

	Free percentage	Reserve percentage
Natural (sun-dried) seedless	65	35
Dipped and related seedless	56	44

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

Dated: November 15, 1979.

D. S. Kuryloski,

Acting Director, Fruit and Vegetable Division.

[FR Doc. 79-35787 Filed 11-19-79; 8:45 am]

BILLING CODE 3410-02-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Domestic Licensing of Production and Utilization Facilities; Fracture Toughness Requirements for Nuclear Power Reactors

Correction

In FR Doc. 79–29795, appearing in the issue of Wednesday, September 26, 1979, on page 55328 in the last column under IV.A.3, the fifth line correct "ND–2333" to read "NB–2333".

BILLING CODE 1505-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 329

Computation of Interest on Time And Savings Deposits During Leap Years; FDIC General Counsel's Opinion No. 5

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of FDIC General Counsel's Opinion No. 5.

SUMMARY: FDIC General Counsel's Opinion No. 5 set forth below advises insured nonmember banks of the proper method of calculating and advertising

interest on deposits during the upcoming leap year.

The question has been raised as to the appropriate method of computing and calculating interest on time and savings deposits during leap year and appropriate advertising of interest rates during leap year.

This opinion interprets and applies §§ 329.3(e) and 329.8(f) of Part 329 of FDIC's regulations (12 CFR 329.3(e) and 329.8(f)).

FOR FURTHER INFORMATION CONTACT: F. Douglas Birdzell, Senior Attorney 202–389–4324.

SUPPLEMENTARY INFORMATION: Under § 329.3(e) of FDIC's regulations, it is provided that in computing interest on time and savings deposits, the time factor should be expressed as a fraction in which the actual number of days the funds earn interest is the numerator, and the denominator is either 360, 365, or, in leap year, 366. However, when a deposit matures in one month, or multiples thereof, the bank may use thirty days in the numerator, or corresponding multiples thereof.

The effect of this provision of the regulations (as further interpreted by § 329.101 (12 CFR 329.101)) is to provide a means by which banks may increase the effective rate of interest paid on time or savings deposits by the use of an artificial 360-day year as the basis for computation. For example, if a $^{365}/_{360}$ fraction is used (or in a leap year, $^{366}/_{360}$), the effective rate will be greater than if the actual number of days are used in the denominator (i.e., $^{365}/_{365}$, $^{366}/_{366}$.

Naturally, a bank may use any method falling within the parameters set by § 329.3(e) in computing interest on deposits during both leap years and nonleap years. FDIC's major concern as a regulator is that the method used be clearly disclosed in the bank's deposit contracts and accurately reflected in bank advertising.

As a general proposition, where a bank has used a $^{365}/_{360}$ method in calculating interest during a conventional year, it will be required to use a $^{366}/_{360}$ method in calculating interest during a leap year unless it informs its depositors that it is planning to use some other method. If the bank's deposit contracts fail to clearly and conspicuously disclose that the bank will not count the extra day in leap year (i.e., will use a $^{365}/_{360}$ calculation during leap year), the bank will be required to notify depositors that it is employing a means of calculating interest which will be less advantageous to the depositor during leap year than the method used during conventional years.

Banks should take particular care to be sure that their advertising accurately reflects the method of interest calculation during leap year. For example, an advertising statement that a bank "pays the higest rates of interest" or that it "compounds daily" will be considered inaccurate, misleading, and a misrepresentation of a bank's deposit contracts if, in fact, the bank is using a method of computation which does not take into account the extra day in leap year. If a bank is taking into account the extra day in leap year and paying for that extra day, its advertising must clearly and conspicuously reflect that the stated annualized yield is applicable only as to funds which will be on deposit for the extra day in leap year. For example, if a four-year time deposit encompasses leap year 1980, advertisements for that deposit must clearly and conspicuously state that the increased effective rate is applicable for 1980 only, and the lesser appropriate rate will be applicable for the remaining period of the deposit. That lesser applicable rate must also be stated. To fulfill this requirement, a bank could advertise a nonleap year yield with an asterisk notation to the leap year yield.

If the bank should fail, for some reason, to advertise the leap year yield, or advertise a nonleap year yield, and it is otherwise obligated to pay the leap year yield, it must do so. Understatement of a yield is not considered misleading advertising.

Leap year is defined as the 366-day period ending February 29th.

* * * * *

By order of the Board of Directors.

Dated: November 13, 1979.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 79-35822 Filed 11-19-79; 8:45 am]

BILLING CODE 6714-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. 9059]

Trans World Accounts, Inc., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Modifying order.

SUMMARY: This order further modifies the Commission's July 25, 1979 "Modified Order to Cease and Desist", 44 FR 49650, by inserting Paragraph 3 which had been omitted pending its reformulation in accordance with the March 29, 1979 mandate of the Court of Appeals for the 9th Circuit.

DATES: Final order issued Oct. 25, 1977. Modifying order issued Oct. 25, 1979.[1]

FOR FURTHER INFORMATION CONTACT: William A. Arbitman, Director, 9R, San Francisco Regional Office, Federal Trade Commission, 450 Golden Gate Ave., San Francisco, Calif. 94102, (415) 556–1270.

SUPPLEMENTARY INFORMATION: In the Matter of Trans World Accounts, Inc., a corporation, and Floyd T. Watkins, individually and as an officer of said corporation. Codification under 16 CFR Part 13, appearing at 44 FR 49650, has been amended by adding under Subpart-Threatening Suits, Not in Good Faith: § 13.2264 Delinquent debt collection.

(Sec. 6, 38 Stat. 721; (15 U.S.C. 46). Interprets or applies sec. 5, 38 Stat. 719, as amended; (15 U.S.C. 45))

The modifying order is as follows:

Order on Remand

This matter is before the Commission upon remand from the Ninth Circuit Court of Appeals, which affirmed the Commission's findings of violation and enforced the order entered by the Commission save for paragraph 3 thereof. As to that paragraph, the Court remanded to the Commission for reformulation.

The Commission found, *inter alia*, that Trans World Accounts has misrepresented the imminency of legal action in its form collection letters, implying therein that legal action would be taken within very short periods of time following refusal by the alleged debtor to pay a debt, when, in fact, the only response to nonpayment by Trans World would be to send another letter in its form series.

Paragraph 3 of the Commission's order prohibited both misrepresentations of the imminency of legal action, *and* of its likelihood. This was intended to eliminate misrepresentations of the imminency of legal action, and to "fence-in" related misrepresentations of the *likelihood* of legal action. In remanding this order provision, the Court of Appeals applied the terms "vagueness and overbreadth" to that portion of the order fencing-in misrepresentations of the likelihood of legal action. Respondents argue that the Court held that a showing of misrepresentations of the imminency of legal action was insufficient to justify any fencing-in order as to the likelihood of legal action. Complaint counsel argue that the Court made clear that the Commission was not powerless to fence-in misrepresentations of the

[1] Copies of the Order on Remand filed with the original document.

likelihood of legal action, but merely objected to the manner in which the Commission had done so.

From the Court's opinion, we are not entirely sure what is the source of its objection to the breadth of the Commission's order. Both sides have offered plausible interpretations. For the reasons noted below, we believe that it will be sufficient for the purposes of this proceeding if we adopt the order proposed by respondents.[2]

The Fair Debt Collection Practices Act, 15 U.S.C. 1692, prohibits on pain of $10,000 civil penalties per violation, any "false, deceptive, or misleading representation or means in connection with the collection of any debt", 15 U.S.C. 1692e. Among the deceptive practices specifically enumerated are "The threat to take any action that cannot legally be taken or that is not intended to be taken." 15 U.S.C. 1692e(5).

Respondents suggest that their messages are merely "educational" rather than "threatening." The two attributes are not mutually exclusive, however, and coalesce perfectly in the typical debt collection missive. In our experience, debt collectors are not in business to give free correspondence courses in Creditors' Remedies. When a letter is sent to a debtor for the purpose of collecting a debt, and the writer makes the observation that the debtor "will" or "may" be sued if he or she does not pay, that observation is very likely to be perceived by the debtor as a threat. Why else, after all, would the debt collector have spent money to include that information in its letter?

This commonsense proposition finds support in the decision of the Ninth Circuit, as complaint counsel observe. The Court recognized that statements to the effect that legal action "may" be taken if the debtor did not pay within five days were threats of imminent legal action, not merely abstract statements of creditors' legal rights.

In this case, of course, as the Court and respondents observe, there was no proof that respondents misrepresented the *likelihood* of legal action, and no order against such misrepresentations will enter. But respondents would err grievously to assume that they, therefore, are entitled in the future to misrepresent the likelihood of legal action, particularly given the provisions of the Fair Debt Collection Practices Act cited above.

A valid function is performed by advising debtors of the possiblity of legal action if legal action *as to the debtor being informed* is, indeed, a realistic possibility. Where form letters are used to communicate the possibility of legal action, however, some care is necessary to avoid deception. If, for example, debtors allegedly owing small amounts are rarely or never sued in the event that they fail to pay, it is plainly deceitful to threaten such debtors with the reasonable possiblity of legal action. The deceit as to those debtors not likely to be sued is not obviated merely because the same form letters are sent to other debtors, owing much larger amounts, who are likely to be sued.

A debt collector must, therefore, take care that when threatening legal action, the threat be accompanied by an intention to take such legal action as to the debtor being threatened in the event that payment is not made or a defense not raised by the debtor. In the case of form-letter threats, particular care is needed to assure that such threats are not directed at recipients against whom the collector or creditor would be unprepared to take legal action in the event that payment or a defense were not forthcoming. If particular creditors do not take legal action against debtors owing small amounts, then it is simply dishonest to send form letters on behalf of those creditors to those debtors that in any way suggest that legal action may be taken.

With these observations we shall enter the order proposed by respondents, after substitution of the words "legal action" for "lawsuit".

Therefore, it is ordered, That the Commission's "Modified Order to Cease and Desist" dated July 25, 1979, be further modified by the insertion of Paragraph 3 to read:

"3. Misrepresenting directly or by implication, that legal action with respect to an alleged delinquent debt has been or will be initiated, or misrepresenting in any manner the imminency of legal action."

By the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 79-35678 Filed 11-19-79; 8:45 am]

BILLING CODE 6750-01-M

[2] We have, however, retained the term "legal action" rather than "lawsuit". There is no reason why respondents should be allowed to misrepresent the imminency of any form of "legal action" (e.g., referral to an attorney, levying on a judgment). This is clearly permissible fencing-in, and the Court of Appeals expressed no objection to this formulation in the order that was before it.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 270

[Docket No. RM80-7; Order No. 58]

Final Rule Governing the Maximum Lawful Price for Pipeline, Distributor or Affiliate Production

AGENCY: Federal Energy Regulatory Commission, DoE.

ACTION: Final Regulations.

SUMMARY: On December 1, 1978, the Federal Energy Regulatory Commission (Commission) issued interim regulations (43 FR 56448, December 1, 1978) implementing the Natural Gas Policy Act of 1978 (NGPA). The Commission is issuing § 270.203 of the interim regulations as a final regulation. Section 270.203 defines what sales of production by interstate pipelines, intrastate pipelines, local distribution companies and affiliates of those entities will be considered first sales for purposes of the Natural Gas Policy Act of 1978.

EFFECTIVE DATE: November 14, 1979.

FOR FURTHER INFORMATION CONTACT:

Eli Farrah, Office of the General Counsel, Federal Energy Regulatory Commission, Room 4008-E, 825 North Capitol Street, NE., Washington, D.C. 20426 (202) 357-8316.

Jane Phillips, Office of the General Counsel, Federal Energy Regulatory Commission, Room 8104-B, 825 North Capitol Street, Washington, D.C. 20426 (202) 357-8033.

November 14, 1979.

I. Background

On December 1, 1978, the Federal Energy Regulatory Commission (Commission) issued interim regulations (43 FR 56448, December 1, 1978) implementing the Natural Gas Policy Act of 1978 (NGPA). Section 270. 203(a) of the interim regulations implements section 2(21)(B) of the NGPA and prescribes which sales of natural gas will be considered to be first sales for NGPA purposes because the gas is attributable to production by interstate pipelines, intrastate pipelines, local distribution companies and affiliates thereof. Section 270. 203(b) of the interim regulations defines what other sales by these entities will be considered to first sales in order to prevent circumvention of the maximum lawful prices established under the NGPA. Section 270.203(c) of the interim regulations defines certain terms used in § 270.203.

The Commission has received numerous comments concerning § 270.203 and is amending that section based on an analysis of these

comments. Section 270.203 as amended delineates the circumstances under which a sale of production of an interstate or intrastate pipeline, local distribution company (or affiliate of any of these entities) will be regulated as a first sale under the NGPA. Production of interstate pipelines and their affiliates which is not regulated as a first sale under the NGPA is subject to continuing regulation under the Natural Gas Act (NGA). In response to comments received on § 270.203 and in conjunction with the amendments issued in this order, the Commission is proposing by separate order to add a new § 2.66a to its regulations under the NGA which, in general, will permit interstate pipelines to determine the cost component associated with their own production by reference to NGPA maximum lawful prices, for NGA ratemaking purposes, in those instances where the pipeline would have been allowed the area or national rates under the NGA.

II. Summary of Comments and Revisions to § 270.203

A. *Attribution Rule for Pipelines and Distributors.* Section 2(21)(B) of the NGPA provides that a sale of natural gas by a pipeline, distributor or affiliate thereof is not a first sale unless the sale is "attributable" to volumes of natural gas produced by such pipeline, distributor or affiliate thereof. Section 270.203(a), as amended, describes the circumstances under which a sale of natural gas will be considered to be "first sale" of natural gas "attributable" to volumes produced by a pipeline or distributor. Under the amended rule sales by affiliates of pipelines and distributors are now treated separately in § 270.203(c). Section 270. 203(a) has been clarified to indicate that, to the extent a sale is comprised *exclusively* of production volumes from identifiable wells, properties, or reservoirs which are owned by the pipeline or distributor making the sale, such sale is attributable to volumes of natural gas produced by that pipeline or distributor. For example, if a pipeline were to sell its production at the wellhead, in an offsystem sale, such a sale would generally qualify under § 270.203(a) as a first sale.

As the comments point out, however, sales by pipelines usually do not occur at the wellhead. Pipeline sales generally occur at the point the natural gas is withdrawn from the pipeline's general system supply. Furthermore, pipelines usually commingle the gas they produce with gas purchased from other sources and sell such mixed volumes without regard to the source of the particular volumes of natural gas involved. The Commission is aware that, as a result, most sales by interstate pipelines will not qualify as first sales under § 270.203(a) because the volumes sold are not produced exclusively by and identifiable to the pipeline's own production.

It should be noted, however, that were a pipeline to dedicate natural gas which it produced from an identifiable source to a particular purchaser by contract, commingle the gas with general system supply gas and withdraw equivalent volumes for delivery to that purchaser the sale would generally qualify as a first sale. The sale would qualify because the source of the gas involved is identified and the Commission could be assured that the gas is "attributable" to the pipeline's own production. In addition, the Commission would be able to evaluate requests for allowances for transportation and storage expenses incurred between the wellhead and the point of delivery to the purchaser.

Although many comments have recommended otherwise, the Commission will not interpret the term "attributable" so as to confer first sale treatment on pipeline sales if only a portion of the gas involved was produced by the pipeline. The language of section 2(21)(B) requires that a sale be "attributable" to the pipeline's *own* production. We believe that Congress did not intend for pipeline or distributor sales from general system supply to qualify as "first sales" merely because some portion of that supply, no matter how small, consists of its own production. Rather, we believe that these sales were precisely the type of sales which were intended to qualify for the general exclusion from first sale regulation for pipeline or distributor sales in section 2(21)(B) of the NGPA. The attribution rule accomplishes that result.

Assuming we were to interpret section (2)(21)(B) to treat such mixed volume sales by pipelines or distributors as first sales, the Commission would not adopt such a course because it would result in a wholly inappropriate and unworkable dividing line between "first sales" and other sales, and would override the existing division between Federal and State authority relating to gas sales by pipelines and distributors. The Commission believes that Congress intended that section 2(21) of the NGPA disturb resale rate regulation under the NGA as little as possible. Under the NGA the Commission only has authority to regulate the wholesale rates of interstate pipelines. Retail sales by interstate pipelines, intrastate pipelines and local distribution companies have traditionally been regulated by the States. If the Commission were to treat all pipeline or distributor sales as first sales where any portion of the volume sold is produced by the pipeline or distributor. Commission regulation would extend to retail sales by interstate pipelines to their direct sale industrial customers. The Commission would also be exercising "first sale" jurisdiction over sales by intrastate pipelines and local distributors of volumes produced by these companies. Yet, pipelines and distributors that did not produce any portion of the natural gas involved in their sales would continue to be exempt from first sale regulation under the exclusion in section 2(21)(B) of the NGPA. Moreover, a pipeline or distributor would be able to incur or avoid first sale regulation by entering into production activities or abandoning production activities as it saw fit. The Commission declines to effect such results absent a clearer showing of a need to do so.

Furthermore, if the Commission were to treat all sales as first sales where any portion of the volumes sold is produced by a pipeline or distributor, additional problems would be created in regard to mixed volume sales by pipelines. Where a pipeline makes a sale from general system supply rather than at the wellhead, the source of the particular volumes of gas sold generally cannot be determined. Although comments by pipelines request first sale treatment for such sales they also request allowances for non-production related costs such as transportation and storage which are incurred between the wellhead and the point at which the volumes are delivered to the purchaser and the sale occurs. However, if mixed volume sales by pipelines and distributors were considered to be first sales, the Commission would be unable to reasonably act on such requests for allowances since the source of the particular volumes of gas involved in any given sale could not be determined.

For the reasons stated above, the Commission has decided to limit first sale treatment for pipelines and distributors under the attribution rule to those sales which are statutorily designated as first sales because the volumes sold are exclusively attributable to the pipeline or distributor's production.

Many comments recognize the problems inherent in according first sale treatment to mixed volume sales by pipelines. As an alternative, these comments suggest that the Commission accord first sale treatment to the pipeline's production by imputing a sale at the point where the pipeline takes its

gas into its transmission system. However, imputing a sale at the wellhead would extend the first sale concept to intracorporate transactions. As a result, Title I prices would be applied to bookkeeping and accounting entries of a corporation rather than to actual sales. In addition, such a rule would extend NGPA first sale jurisdiction to all corporations which produce their own natural gas. Comments filed by industrial corporations which consume their own natural gas production indicate that this would produce undesirable results and that no valid regulatory purpose would be served by extending the Commission's jurisdiction to cover such production. These comments suggest that such an extension could discourage industrial self-help measures and would contravene the policy expressed in section 608 of PURPA. The Commission agrees that no valid reason presently exists to define intracorporate transfers of gas at the wellhead by intrastate pipelines and distributors as sales. Indeed, to do so would displace existing State regulation of these companies and their production. The Commission declines to effect such results.

B. *Circumvention Rule for Pipelines and Distributors.* Pursuant to its authority under section 2(21)(A)(v) of the NGPA the Commission has defined certain sales by pipelines and distributors, in § 270.203(b), as first sales in order to prevent circumvention of the NGPA maximum lawful prices. Section 270.203(b), as amended, provides that any sale by a pipeline or distributor which is comprised of production volumes from properties owned by the pipeline or distributor and production volumes from other sources will be considered to be a first sale unless one of two exclusions under the rule applies. The first exclusion provides that if the rate at which such natural gas is sold by the pipeline or distributor is regulated under the NGA or is regulated or subject to regulation by a State agency empowered by State statute to establish, modify or set aside the rate for the sale, then the sale will not be considered to be a first sale under the circumvention rule. The second exclusion provides that a sale by a pipeline or distributor will not be considered to be a first sale under the circumvention rule if the Commission, upon application, has determined not to treat the sale as a first sale. The Commission intends to waive first sale treatment under the circumvention rule, pursuant to the second exclusion, only where the applicant has presented sufficient facts to establish that first sale treatment is not needed to prevent circumvention of the NGPA maximum lawful prices. Any application received pursuant to § 270.203(b)(2) will be noticed in the **Federal Register**, and interested parties will be given an opportunity to comment on the merits of the application.

The circumvention rule for pipelines and distributors is a necessary corollary to the attribution rule. Under the attribution rule, sales by pipelines or distributors are considered to be "attributable" to production by the pipeline or distributor, and thus to be first sales, only where the sale is comprised exclusively of the pipeline or distributor's own production. Mixed volume sales by a pipeline or distributor are not considered to be first sales under the attribution rule. Accordingly, a pipeline or distributor could avoid first sale treatment and circumvent the maximum lawful prices established by the NGPA merely by making mixed volume sales. Section 270.203(b) prevents such circumvention of NGPA prices by regulating mixed volume sales as first sales unless they are subject to other safeguards; *e.g.*, regulation under the NGA, regulation by a State agency, or review by the Commission, on application, in order to determine whether a sale should be treated as a first sale.

Section 270.203(b) avoids the potential for recreating a dual market such as existed under the NGA. By prescribing maximum lawful prices for natural gas without regard to the situs of the sale, Congress sought to eliminate advantages enjoyed by the intrastate market. However, because a sale of mixed volumes would not be "attributable" to a pipeline's own production within the meaning of § 270.203(a), such a sale would not be regulated as a first sale under the NGPA. In those instances where the sale would not be regulated under the NGA or by any particular State, the sale price would not be regulated at all. By continuing to commingle its production with gas purchased from others, the pipeline or distributor could charge prices in excess of those charged by other sellers and could use the increased revenues to pay higher royalties in order to secure additional leases. The pipeline or distributor would have an incentive to make mixed volume sales in a State which did not regulate the price for such sales so that it could secure such an advantage over other producers in securing leases. In order to avoid such a result, § 270.203(b) makes such sales of otherwise unregulated gas first sales unless the Commission, on application, decides that first sale treatment is not necessary in order to prevent circumvention of the NGPA maximum lawful prices.

Some of the comments received by the Commission assert that, while the individual States are given the power in section 602 of the NGPA to set ceiling prices below the NGPA price ceilings, the Commission was only given the authority to create higher ceiling prices and has unlawfully attempted in § 270.203 to establish lower ceiling prices indirectly by precluding application of NGPA maximum lawful prices. These comments have misconstrued the effect of § 270.203. In § 270.203(a) the Commission has interpreted the term "attributable" as that term is used in section 2(21)(B) of the NGPA and has described which sales by pipelines and distributors are attributable to their own production and are, thus, first sales. The Commission believes that its definition of the term "attributable" is the most reasonable and advisable one based on the policies articulated above. The fact that the Commission did not exercise its authority under section 2(21)(A)(v) of the NGPA to subject all pipeline or distributor sales to first sale treatment does not mean that the Commission has set ceiling prices below the NGPA ceiling prices in contravention of section 602 of the NGPA. In fact, in § 270.203 the Commission has exercised its authority under section 2(21)(A)(v) of the NGPA to increase the number of sales which will be governed by the NGPA maximum lawful prices.

C. *Sales by Certain Affiliates of Pipelines or Distributors.* Pursuant to our interpretation of the term "attributable" as it is used in section 2(21)(B) of the NGPA and our authority under section 2(21)(A)(v) of the NGPA, the Commission in § 270.203(c), has provided that any sale by an affiliate of a pipeline or distributor is a first sale if such affiliate is not itself a pipeline or distributor unless the Commission, upon application, has decided not to treat such sale as a first sale. The Commission has also made clear that the term "sale" as it is used in § 270.203(c) does not include any transaction between an interstate pipeline and an affiliate thereof if such transaction would not have been treated as a sale for purposes of the NGA.

The Commission has exercised its authority under section 2(21)(A)(v) of NGPA, in § 270.203(c), to define all such affiliate sales as first sales in order to prevent circumvention of the NGPA maximum lawful prices. The Commission has adopted this approach for the following reason. Sales by

affiliates of pipelines and distributors are excluded from first sale treatment by section 2(21)(B) of the NGPA unless such sales are "attributable" to the affiliate's own production. As a result, sales by gatherers who are affiliated with a pipeline or distributor would be excluded from first sale treatment where the gatherer did not produce all of the gas sold, irrespective of whether the gatherer was or was not selling the gas to the affiliated pipeline or distributor. However, sales by gatherers that are *not* affiliated with a pipeline or distributor would not be excluded from first sale treatment. Moreover, an entity selling natural gas could avoid first sale treatment and circumvent the maximum lawful prices established by the NGPA merely by being an affiliate of a pipeline or distributor and conducting transactions which would not otherwise qualify as first sales under § 270.203(a). Accordingly, the Commission has found it necessary to define all sales by affiliates of a pipeline or distributor as first sales if the affiliate is not itself a pipeline or distributor.[1] However, under § 270.203(c) the Commission will entertain applications in individual instances to allow an applicant to present sufficient facts to establish that such first sale treatment is not necessary to prevent circumvention of the NGPA prices.

Treating all affiliate sales as first sales if the affiliate is not itself a pipeline or distributor does no more than recognize what section 2(21) and the other provisions of the NGPA appear to provide for: first sale treatment for all sales which precede sales by pipelines or distributors, where the seller is not a pipeline or distributor. Furthermore, the rule in § 270.203(c) is supported by the desirability of extending Title I maximum lawful prices and related provisions of our regulations concerning resales (§ 270.202) and sales of natural gas subject to differing maximum lawful prices (§ 270.201), and by the need to avoid the anomalous results which would follow from failing to define these sales as first sales.

D. *Reports.* Section 270.203(d), as amended, requires a pipeline or distributor to file a report with this Commission every six months showing the price charged in sales which have been excluded from first sale treatment under § 270.203 (b)(2) and (c). These reports will allow the Commission to re-evaluate those sales in order to determine whether they should be treated as first sales in order to prevent circumvention of the maximum lawful prices established by the NGPA.

E. *Definitions.* Section 270.203(e) defines certain terms as they are used in § 270.203. "Pipeline or distributor" is defined as an interstate pipeline, an intrastate pipeline or a local distribution company. "State Agency" is defined as a State, a political subdivision of a State, or an agency or instrumentality of either.

III. Public Procedures and Effective Date

The regulations in Part 270 were originally proposed for comment in November of 1978 and issued as interim regulations on December 1, 1978 (43 FR 56448, December 1, 1978). For 60 days thereafter comments were received and during that period public hearings were held on these regulations. By this process the Commission complied with the provisions of section 502(b) of the NGPA, which requires that "[t]o the maximum extent practicable," an opportunity for the oral presentation of data, views, and arguments be afforded for certain regulations under the NGPA. The amendments to § 270.203 contained in this order rest upon consideration given to the information received during the above-described notice, comment, and hearing process, as well as upon comments received via the FERC "Hot Line". The Commission finds that further notice and public procedure with respect to these rules is unnecessary. The Commission also finds that good cause exists to make these regulations effective immediately. Delay in the effective date of these regulations, even for a short period of time, may cause pipelines, distributors or their affiliates to postpone, or forego altogether, drilling decisions which would increase the nationwide availability of natural gas. Thus, the Commission is dispensing with the publication requirements of 5 U.S.C. 553(d)(1).

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301 *et seq.*; Natural Gas Act, as amended, 15 U.S.C. 717 *et seq.*; Department of Energy Organization Act, 42 U.S.C. 7107 *et seq.*; E.O. 12009, 42 FR 46267).

In consideration of the foregoing § 270.203 of Part 270, Subchapter H, Chapter I, Title 18, Code of Federal Regulations is issued as a final regulation as set forth below, effective immediately.

By the Commission.

Kenneth F. Plumb,

Secretary.

1. Part 270 is amended in the table of contents and in the text of the regulation by deleting § 270.203 and substituting the following in lieu thereof:

§ 270.203 Pipeline, distributor and affiliate production.

(a) *Attribution rule for pipelines and distributors.* For purposes of applying section 2(21)(B) of the NGPA, a sale by a pipeline or distributor is a sale of natural gas attributable to volumes of natural gas produced by such pipeline or distributor to the extent that such sale is comprised exclusively of production volumes of natural gas from identifiable wells, properties, or reservoirs which are owned by such pipeline or distributor.

(b) *Circumvention rule for pipelines and distributors.* In order to prevent circumvention of the maximum lawful prices established under Title I of the NGPA, the term, "first sale" includes any sale by a pipeline or distributor which is comprised of production volumes from identifiable wells, properties, or reservoirs if a portion of those volumes is produced from wells, properties, or reservoirs owned by such pipeline or distributor unless:

(1) The price at which such natural gas is sold is regulated pursuant to the Natural Gas Act or is regulated by a State agency empowered by State statute to establish, modify or set aside the rate for such sale; or

(2) The Commission, on application, has determined not to treat such sale as a first sale.

(c) *Sales by certain affiliates.* Any sale by an affiliate of a pipeline or distributor is a first sale if such affiliate is not itself a pipeline or distributor, unless the Commission, on application, has determined not to treat such sale as a first sale. For purposes of this paragraph, the term "sale" does not include any transaction between an interstate pipeline and an affiliate thereof if such transaction would not have been treated as a sale for purposes of the Natural Gas Act.

(d) *Reports.* A pipeline, distributor or affiliate thereof must file a report with this Commission every 6 months showing the price charged in a sale which was excluded from first sale treatment under paragraph (b)(2) or (c) of this section. Any determination under paragraph (b)(2) or (c) may be revoked by the Commission on the basis of information in such reports or on the basis of other information.

(e) *Definitions.* For the purposes of this section:

(1) "Pipeline or distributor" means an interstate pipeline, an intrastate pipeline, or a local distribution company.

[1] See Notice of Proposed Rulemaking issued with this order discussing requirement that an interstate pipeline secure abandonment authorization prior to spinning off production properties to an affiliate.

(2) "State agency" means a State, a political subdivision of a State, or an agency or instrumentality of either.

[FR Doc. 79-35671 Filed 11-19-79; 8:45 am]
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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

21 CFR Part 558

[Docket No. 79N-0307]

Hygromycin B and Tylosin

AGENCY: Food and Drug Administration.

ACTION: Final Rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the regulations to codify two approved new animal drug applications (NADA's) sponsored by Elanco Products Co. for use of hygromycin B and tylosin in chicken and swine feed.

EFFECTIVE DATE: November 20, 1979.

FOR FURTHER INFORMATION CONTACT: Charles E. Haines, Bureau of Veterinary Medicine (HFV-138), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3410.

SUPPLEMENTARY INFORMATION: Elanco Products Co., a Division of Eli Lilly & Co., 740 S. Alabama St., Indianapolis, IN 46206, is the sponsor of NADA 13-388 for chicken feeds containing 8 to 12 g (grams) of hygromycin B with 4 to 50 g of tylosin per ton and NADA 12-548 for swine feeds containing 12 g of hygromycin B with 10 to 100 g of tylosin per ton. The combination is indicated for control of certain helminths and for growth promotion and feed efficiency.

The NADAs are two of several which are subject to § 558.15 (21 CFR 558.15) published in the **Federal Register** of February 25, 1976 (41 FR 8282). In § 558.15, the agency revoked certain uses of antibiotic and sulfonamide drugs in animal feeds. All persons marketing antibiotic and sulfonamide products or identical, related, or similar products for which a use was not revoked were required to submit NADA's and commitments to provide data to resolve outstanding safety questions if marketing is to continue on an interim basis. Failure to comply with these requirements or to make the necessary submissions and commitments constituted grounds for withdrawal of approval of the product.

The agency did not receive a § 558.15 commitment from Elanco Products Co. (Elanco) regarding the use of the firm's hygromycin and tylosin product. Accordingly, in the **Federal Register** of April 8, 1977 (42 FR 18611), the agency deleted that portion of the regulations reflecting the approvals and use of the products.

Subsequently, Elanco contended that a timely commitment had been submitted. The firm provided the agency with copies of prior submissions as well as with the data from current studies conducted to satisfy the requirements of § 558.15. After reviewing Elanco's submissions, FDA found that necessary commitments had been submitted, that use of hygromycin with tylosin in chicken and swine feeds had been erroneously deleted from the regulations, and that therefore the supportable uses of the products should be reinstated in the regulations.

This document therefore codifies previous approvals which have been erroneously deleted. Since the approvals were granted before July 1, 1975, a summary of the safety and effectiveness data and information submitted in accordance with § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)) is not required to be on file with the Hearing Clerk (HFA-305), Food and Drug Administration.

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 558 is amended as follows:

1. The table in § 558.15(g)(2) is amended by adding a new entry for Elanco Products Co. to read as follows:

§ 558.15 Antibiotic, nitrofuran, and sulfonamide drugs in the food of animals.

* * * * *

(g) * * *

(2) * * *

Drug sponsor	Drug ingredient	Species	Use levels	Indications for use
*	*	*	*	*
Elanco Products Co	Hygromycin B and tylosin	Chickens	8 to 12 g/t; 4 to 50 g/t	See § 558.274.
Do	Hygromycin B and tylosin	Swine	12 g/t; 10 to 100 g/t	Do.

2. The table in § 558.274(e)(1) is amended by alphabetically adding in item (i) for chickens and in item (ii) for swine a new entry for the combination of hygromycin B with tylosin, to read as follows:

§ 558.274 Hygromycin B.

* * * * *

(e) *Conditions of use.*

(1) * * *

Hygromycin B in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
(i) 8 to 12	*	*	*	*
	Tylosin 4 to 50.	Chickens: Control of infestations of large roundworms (*Ascaris galli*), cecal worms (*Heterakis gallinae*,), and capillary worms (*Capillaria obsignata*); growth promotion and feed efficiency.	As tylosin phosphate; withdraw 3 days before slaughter.	000986
(ii) 12	*	*	*	*
	Tylosin 10 to 100.	Swine: Control of infestations of large roundworms (*Ascaris suis*), nodular worms (*Oesophagostomum dentatum*), and whipworms (*Trichuris suis*); growth promotion and feed efficiency.	As tylosin phosphate; withdraw 15 days prior to slaughter; feed continuously as follows:	000986

Animal wt. (lbs.)	Amount of Tylosin (g/t)
Up to 40	20 to 100.
41 to 100	20 to 40.
101 to market wt.	10 to 20.

* * * * *

3. In § 558.625 by revising the introductory text of paragraph (f)(2) and adding paragraph (f)(2)(i) to read as follows:

§ 558.625 Tylosin.

* * * * *

(f) *Conditions of use.* * * *

(2) Tylosin may be used in accordance with the provisions of this section in the combinations provided as follows:

(i) Hygromycin B as in § 558.274.

(ii) [Reserved]

(iii) [Reserved]

* * * * *

Effective date: This regulation is effective November 20, 1979.

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

Dated: November 9, 1979.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 79-35518 Filed 11-19-79; 8:45 am]

BILLING CODE 4110-03-M

NEIGHBORHOOD REINVESTMENT CORPORATION

24 CFR Ch. XXV

Administrative Rules and Regulations

AGENCY: Neighborhood Reinvestment Corporation.

ACTION: Final regulation.

SUMMARY: These regulations set forth the purpose and scope of activities of the Neighborhood Reinvestment Corporation, provide general information on the organization and channeling of functions, and provide general program information for grant applicants. In addition, they furnish public information regarding meetings of the board of directors, in accordance with the provisions of section 552b of title 5, United States Code; and a statement of Non-Discrimination in Federally Assisted Programs.

EFFECTIVE DATE: April 25, 1979

FOR FURTHER INFORMATION CONTACT: Donnie L. Bryant, Secretary, Neighborhood Reinvestment Corporation, 1700 G Street, N.W., Fifth Floor, Washington, D.C., 20552. 202-377-6480

Dated: November 14, 1979.

Donnie L. Bryant,

Secretary.

Title 24 of the Code of Federal Regulations is amended by establishing Chapter XXV, Neighborhood Reinvestment Corporation, consisting of Parts 4100, 4101, 4102, and 4104 to read as follows:

PART 4100—STATEMENT: ORGANIZATION AND CHANNELING OF FUNCTIONS

Sec.

4100.1 Functions and activities.
4100.2 General organization.
4100.3 Field activities.
4100.4 General statement concerning procedures and forms.
4100.5 Delegations of authority.
4100.6 Inquiries.

Authority: Title VI, Pub. L. 95-557, 92 Stat. 2115 (42 U.S.C. 8101 et seq.)

§ 4100.1 Functions and activities.

(a) *General statement and statutory authority.* The Neighborhood Reinvestment Corporation (referred to in this Statement as "the Corporation") was established by Congress in the Neighborhood Reinvestment Corporation Act (Title VI of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, October 31, 1978). The Corporation is not a department, agency, or instrumentality of the United States Government.

(b) The Corporation is authorized to receive and expend Federal appropriations and public and private revenues to conduct a variety of programs designed to reverse decline in residential neighborhoods, and for other purposes. These programs include:

(1) *Neighborhood Housing Services:* The major effort of the Corporation is to assist local communities in the development of local Neighborhood Housing Services (NHS) programs. NHS programs are based upon partnerships of community residents, and representatives of local governments, and financial institutions. Each local program is administered by an autonomous, private, non-profit corporation, and offers comprehensive rehabilitation services to community residents in selected neighborhoods. These services include rehabilitation counseling, construction assistance, financial counseling, and loan referrals. Each local NHS maintains a revolving loan fund which makes rehabilitation loans available to homeowners in target neighborhoods who do not qualify at traditional lending institutions.

(2) *NHS Support:* The Corporation's Division of Support and Training provides supportive services to local NHS programs to insure their continuing effectiveness. These services include provision of training, information and technical assistance to NHS programs.

(3) *NHS Expansion:* In response to requests by local NHS programs, the Corporation provides the local NHS's with assistance in expanding to serve additional neighborhoods.

(4) *Neighborhood Preservation Projects:* The Corporation identifies, monitors, evaluates and supports other promising local neighborhood preservation strategies based on local, public-private partnerships. Those which show particular promise after the monitoring and evaluation stage will be developed as tools to treat specific problems in other neighborhoods.

(5) *Neighborhood Preservation Development:* Neighborhood Preservation Projects which, following a period of monitoring and evaluation, show special promise as replicable mechanisms or strategies to reverse neighborhood decline are replicated in a number of other cities on a pilot basis to test and refine developmental processes in different housing markets and neighborhood environments. Following this pilot stage, the new programs are available for broader replication, subject to availability of resources.

(6) *Neighborhood Housing Services of America:* The Corporation also supports Neighborhood Housing Services of America (NHSA), an independent, private, non-profit corporation which provides a variety of services to local NHS programs, including a loan purchase pool, or secondary market, for NHS revolving loan fund loans.

§ 4100.2 General organization.

(a) *The Board of Directors.* The Corporation is governed by a Board of Directors composed of six members: the Chairman of the Federal Home Loan Bank Board, the Secretary of Housing and Urban Development, the Chairman of the Federal Deposit Insurance Corporation, a Member of the Federal Reserve Board designated by its Chairman, the Chairman of the National Credit Union Administration, and the Comptroller of the Currency. Members of the Board serve *ex officio* during their tenure in the offices mentioned. The Chairman of the Federal Home Loan Bank Board serves the first two-year

term as Chairman of the Corporation's Board, pursuant to the Act. Thereafter, the Board may elect one of its members as Chairman. The Vice-Chairman of the Board is elected by its members. The Bylaws of the Corporation provide for the creation of an Executive Committee, an Audit Committee, and such other committees as the Board may, from time to time, establish. The Board meets quarterly to provide the Corporation's management with guidance and policy direction in the conduct of the Corporation's affairs. The Board of Directors elects the officers of the Corporation.

(b) *Management of the Neighborhood Reinvestment Corporation.* The Executive Director is the Chief Executive Officer of the Corporation and, pursuant to authority of the Board, supervises the operations of the Corporation and conducts its business. The Deputy Executive Director derives certain management authority from the Executive Director and acts in the Executive Director's place when the office of the Executive Director is vacant or its incumbent is absent. The Director, Program Development, supervises the development of Neighborhood Housing Services (NHS) programs in neighborhoods throughout the country and new programs growing out of selected neighborhood preservation projects. The Director, Support and Training, supervises the provision of technical assistance and training programs that support Neighborhood Reinvestment's grantees. The Director, Neighborhood Preservation Projects, supervises the selection, monitoring and evaluation of neighborhood preservation projects. The Director, Finance and Administration, supervises the conduct of the Corporation's financial and related operational activities. The Treasurer is the custodian of the Corporation's assets. The General Counsel is the chief legal officer of the Corporation. The Secretary has record-keeping and other functions generally conducted by corporate secretaries.

§ 4100.3 Field activities.

The Corporation's field activities are conducted from regional and local field offices around the country. Regional offices provide coordination of field activities in support of local programs within the geographic limits of each region. Field offices within each region provide assistance in the development and support of local programs. Regional offices are located as follows:

(a) *Eastern Division—Boston, Massachusetts* (Florida, Alabama, Georgia, North Carolina, South Carolina, Virginia, West Virginia, Maryland, District of Columbia, Delaware, New Jersey, Pennsylvania, New York, Connecticut, Rhode Island Massachusetts, Vermont, New Hampshire, Maine): Neighborhood Reinvestment, c/o Federal Home Loan Bank of Boston, P.O. Box 2196, One Federal Street, Boston, MA 02106, (617) 622–7250.

(b) *Central Division—Dallas, Texas* (Michigan, Indiana, Ohio, Kentucky, Tennessee, Mississippi, Arkansas, Louisiana, Oklahoma, Texas, New Mexico): Neighborhood Reinvestment, 500 South Ervay, Dallas, TX 75201, (214) 741–9521.

(c) *Western Division—San Francisco, California* (Washington, Oregon, California, Alaska, Hawaii, Idaho, Nevada, Arizona, Utah, Wyoming, Colorado, Kansas, Nebraska, South Dakota, North Dakota, Minnesota, Iowa, Missouri, Illinois, Wisconsin): Neighborhood Reinvestment, c/o Federal Home Loan Bank of San Francisco, 600 California Street, Suite 301, San Francisco, CA 94108, (415) 393–0705.

§ 4100.4 General statement concerning procedures and forms.

(a) The meetings of the Board of Directors are conducted in accordance with provisions of the Neighborhood Reinvestment Corporation Act, the Neighborhood Reinvestment Corporation's Bylaws, and, when not inconsistent with the foregoing, with Robert's Rules of Order. Meetings of the Board of Directors are open to public observation in accordance with the Corporation's Statement: Public Information Regarding Meetings of the Board of Directors.

(b) Information about the Corporation and certain forms used for various programs are available to the public upon request, pursuant to the Corporation's Statement: Availability and Character of Records.

§ 4100.5 Delegations of authority.

In accord with the Resolution by the Board of Directors adopted December 21, 1978, the Executive Director exercises grant and contract authority of the Neighborhood Reinvestment Corporation, pursuant to the direction, policy guidance of, and budgets adopted by the Board of Directors. All such authority is exercised in Washington, D.C., and none has been delegated to Regional or Field offices.

§ 4100.6 Inquiries.

Requests for additional information should be addressed to: Neighborhood Reinvestment Corporation, 1700 G Street NW., Washington, D.C. 20552.

PART 4101—GENERAL PROGRAM INFORMATION FOR GRANT APPLICANTS

Subpart A—Neighborhood Housing Services Programs

4101.1 Introduction.
4101.2 Neighborhood Housing Services (NHS) Programs; essential elements.
4101.3 Role of the Neighborhood Reinvestment Corporation.
4101.4 Multi-neighborhood programs.
4101.5 Additional neighborhoods for existing NHS programs.
4101.6 Application procedure.

Subpart B—Neighborhood Preservation Projects

4101.12 Introduction.
4101.13 Neighborhood preservation projects; demonstration grants and technical assistance.
4101.14 Program areas.
4101.15 Neighborhood preservation projects; selection criteria.
4101.16 Application procedure.

Authority: Title VI, Pub. L. 95–557, 92 Stat. 2115 (42 U.S.C. 8101 et seq.).)

Subpart A. Neighborhood Housing Services Programs

§ 4101.1 Introduction.

The major effort of the Neighborhood Reinvestment Corporation is to assist local communities in developing Neighborhood Housing Services (NHS) programs—private, locally-controlled, nonprofit organizations which offer comprehensive housing rehabilitation and financial counseling services to residents of locally selected neighborhoods. Patterned after a program created in Pittsburgh in 1968, and based on a partnership of local government representatives, lenders and residents, NHS programs are now operating in more than 100 communities.

§ 4101.2 Neighborhood Housing Services programs; essential elements.

Neighborhood Housing Services programs, as developed by the Neighborhood Reinvestment Corporation, are designed to promote

reinvestment in a wide variety of neighborhoods. A typical NHS program includes the following essential elements:

(a) A neighborhood with defined boundaries characterized by (1) housing stock showing evidence of deterioration and lack of maintenance; (2) an inadequate degree of mortgage and home improvement activity; (3) a substantial degree of homeownership; (4) a median family income in line with estimated typical repair costs and available local financial resources; and (5) an area of 1,000 to 2,000 structures (somewhat fewer in smaller cities).

(b) Neighborhood residents who (1) want to improve their homes and preserve their community; (2) will actively participate in the development and operations of the program; and (3) will help create a positive improvement climate.

(c) Local government capacity and willingness to (1) provide capital improvements and increased city services where needed; (2) establish a sensitive and systematic housing inspection program; and (3) assist in the development, implementation and operations of the program.

(d) Local financial institutions that will (1) agree to reinvest in the neighborhood by making market rate loans to all homeowners meeting normal underwriting criteria; (2) contribute to (and/or help raise locally) the operating costs of the NHS; and (3) actively participate in the development, implementation and operations of the program.

(e) Establishment of a local, private, state-chartered corporation with the following features:

(1) A nonprofit 501(c)(3) tax exempt status;

(2) A governing Board of Directors made up of neighborhood residents and local financial industry representatives, and city government representation or liaison. No partner controls, but neighborhood residents constitute a numerical majority of the Board. The Board with committees, carries out the ongoing responsibility to keep in place the basic resources to operate the program. These resources include loan fund and administrative funding, public improvements, inspection services, bankable lending, a high degree of organized resident support, appropriate target areas and adequate staffing.

(3) A small, but highly skilled and committed staff (usually a director, assistant director/rehabilitation specialist and secretary/administrative assistant). These staff members, from an office in the neigborhood, carry out program responsibilities and provide the following NHS services:

(i) Housing Rehabilitation—an analysis of home repair needs, work writeups, cost estimates and home repair counseling;

(ii) Construction Monitoring—on-site inspections and communication links between contractors and residents;

(iii) Financial Counseling—assists client with financial alternatives, helps assess and solve real estate related problems, makes referrals to lenders or other non-NHS resources, assists with revolving loan fund applications.

(4) A revolving loan fund designed to meet the needs of NHS clients who cannot meet commercial credit requirements. This fund is set up as a self-help tool for the neighborhood and is a source of loans, not grants, with repayment terms to fit the ability of the borrower. Loans are secured by the property, usually a deed of trust or mortgage, and NHS counsels with clients to solve payment difficulties. Funds are normally contributed by foundations, by local corporate sources and by local government, usually from community development block grant resources. The Neighborhood Reinvestment Corporation may provide a seed grant to stimulate capitalization of the revolving loan fund.

§ 4101.3 Role of the Neighborhood Reinvestment Corporation.

The Corporation's role is to develop and assist the NHS program. The developmental process, which usually takes from eight to twelve months, normally includes, but is not limited to, the following:

(a) Entering into a developmental agreement to assist the local entity in developing an NHS program. Cost to the local entity is in the range of $35,000 to $50,000, and covers a full-time local staff person and a series of workshops, including travel for participants to an operating NHS program;

(b) Recruitment of a local, full-time staff person to coordinate all aspects of the local developmental effort;

(c) Securing strong interest and support of a partnership of financial institutions, city officials and neighborhood residents;

(d) Conducting an educational process to acquaint representatives of this local partnership with operational details of the NHS program and assisting them in creating a local program;

(e) Assistance with the recruitment, selection, orientation, and training of NHS staff;

(f) Assistance with the organization and establishment of the NHS Board and committees, policies and procedures;

(g) Assistance in initiating an ongoing fund raising program for the revolving loan fund and administrative costs;

(h) Providing a one-time seed money grant for the revolving loan fund (usually $50,000); and

(i) Providing ongoing information and technical assistance to the newly formed private, nonprofit NHS corporation.

§ 4101.4 Multi-neighborhood programs.

Where resources are adequate, the Neighborhood Reinvestment Corporation has found it possible to create NHS programs which serve two or more neighborhoods within a given city. Applications for "multi-neighborhood" programs should indicate potential sources of funding for development at $50,000 and revolving loan fund monies at $100,000 per neighborhood.

§ 4101.5 Additional neighborhoods for existing NHS programs.

Neighborhood Reinvestment Corporation assistance is available to NHS programs wishing to expand to one or more additionl neighborhoods, and may include grants to revolving loan funds and/or funding of developmental costs. Applications for expansion assistance should indicate potential sources of increased program funding for administrative costs and the revolving loan fund.

§ 4101.6 Application procedure.

(a) Applications for Neighborhood Reinvestment Corporation assistance in developing NHS programs are accepted on an ongoing basis. Local entities should submit completed applications (forms are available upon request) and other supportive materials directly to the Neighborhood Reinvestment Corporation for consideration. Promising applications will be selected for field reviews and ranked according to their readiness for development. Developmental agreements will then be entered into with the local entities, subject to the availability of Neighborhood Reinvestment Corporation resources.

(b) Inquiries or requests for applications should be addressed to the Program Development Division, Neighborhood Reinvestment Corporation, 1700 G Street, NW., Washington, D.C. 20552.

Subpart B—Neighborhood Preservation Projects

§ 4101.12 Introduction.

Through its Neighborhood Preservation Projects (NPP) program, the Neighborhood Reinvestment Corporation seeks out and assists promising neighborhood preservation efforts. In the initial phase of a three-phase process, these projects are monitored and evaluated for potential transferability to other cities. In the second phase, projects are replicated in one or more locations to work out a systematic developmental process. Once the developmental process is refined, the program will enter the third-phase, replication in additional cities with provision of technical assistance to insure each program's success.

§ 4101.13 Neighborhood preservation projects; demonstration grants and technical assistance.

The Neighborhood Reinvestment Corporation is participating in the developmental funding of a limited number of selected demonstrations involving a partnership of neighborhood residents, lenders and other private sector representatives and local government, called Neighborhood Preservation Projects. This involves identifying, monitoring, and evaluating locally developed neighborhood preservation programs which show promise of potential replicability in other communities. Those programs selected receive modest demonstration grants and technical assistance from Neighborhood Reinvestment Corporation staff.

§ 4101.14 Program areas.

(a) The Neighborhood Reinvestment Corporation seeks preservation strategies on a neighborhood scale enhancing residents' quality of life and confidence in their neighborhood. Applications will be considered for selection as neighborhood preservation projects which address (but are not limited to) one or more of the following areas:

(1) Mechanisms which address the displacement of current residents of neighborhoods experiencing rapidly increasing housing costs.

(2) Neighborhood-controlled rental resources involving rehabilitation, management and ongoing maintenance of properties to serve low and moderate income renters.

(3) Property management services (non-profit or subsidized) that stabilize apartment buildings of 5–50 units by bringing sophisticated management, financial analysis, and maintenance services to residents and owners.

(4) Property management training programs for resident owners of 2–6 unit properties.

(5) Strategies for the revitalization of neighborhood commercial areas, relating particularly to the needs of the surrounding residential communities.

(6) Strategies to redesign and convert economically obsolete commercial or other buildings to new uses which will contribute to overall neighborhood revitalization.

(7) Strategies to address residents' concerns about personal safety and property security in neighborhoods or large apartment buildings.

(8) Programs integrating energy conservation techniques into neighborhood housing rehabilitation programs.

(9) Strategies to deal with vacant lots and blighting parcels of land in a neighborhood setting, including creative approaches to land-banking.

(10) Cooperative or condominium conversion mechanisms benefitting the present low or moderate income residents of neighborhoods.

(11) Strategies to improve local schools, using the partnership concept in a neighborhood setting.

(b) Other program areas may be considered for selection if they can be shown to be part of a comprehensive revitalization strategy on a neighborhood scale.

§ 4101.15 Neighborhood preservation projects; selection criteria.

(a) The project should involve a partnership of neighborhood residents, the private sector, and local government.

(b) Preference will be given to projects that are operational.

(c) The project should be specific to a neighborhood or neighborhoods, and should be demonstrating success in upgrading that/those neighborhood(s).

(d) Local government should be willing to allocate financial resources and technical assistance to the project.

(e) Those responsible for the implementation of the project should have a demonstrated capability to perform successfully in the area of neighborhood preservation.

(f) The project sponsors should be willing to provide information which can be analyzed by Neighborhood Reinvestment or its participating agencies to judge the effectiveness of the project. Sponsors should also be willing to cooperate with Neighborhood Reinvestment in assisting others who may wish to replicate their project.

§ 4101.16 Application procedure.

(a) Applications are being accepted on an ongoing basis. Cities or other governmental jurisdictions or non-public entities wishing to have an activity considered for selection as a Neighborhood Preservation Project should submit an application to the Neighborhood Reinvestment Corporation. Application forms are available upon request.

(b) Neighborhood Reinvestment will review materials submitted and select promising submissions for field review. Following the field review, applications will be ranked according to their promise as demonstrations, and agreements will be entered into with the top ranking applicants, subject to the availability of Neighborhood Reinvestment resources.

(c) Inquiries should be addressed to: Neighborhood Preservation Projects, Neighborhood Reinvestment Corporation, 1700 G Street NW., 5th Floor, Washington DC 20552.

PART 4102—STATEMENT: PUBLIC INFORMATION REGARDING MEETINGS OF THE BOARD OF DIRECTORS OF THE NEIGHBORHOOD REINVESTMENT CORPORATION

Sec.

4102.1 Purpose and scope.
4102.2 Definitions.
4102.3 Open meetings.
4102.4 Exemptions.
4102.5 Closed meetings.
4102.6 Public announcements of meetings.
4102.7 Accommodations for public attendance at open meetings.

Authority.—The Neighborhood Reinvestment Corporation Act, Title VI, Housing and Community Development Amendments of 1978, Pub. L. 95–557, sec. 604(h) 42 U.S.C. 8103(h), makes the Neighborhood Reinvestment Corporation (referred to in this statement as "the Corporation") subject to the provisions of 5 U.S.C. 552b, as amended.

§ 4102.1 Purpose and scope.

This statement is issued by the Corporation pursuant to the requirements of the Neighborhood Reinvestment Corporation Act (cited above) that make provisions of the Government in the Sunshine Act, section 552b of Title 5, United States Code, applicable to the Corporation. This Statement is published to provide the public with the fullest practicable information regarding the Board's decision-making processes while protecting the rights of individuals and the ability of the Corporation to carry out its responsibilities.

§ 4102.2 Definitions.

For purposes of this Statement, the term "meeting" means any deliberations (including those conducted by conference telephone call) of at least that number of members of the Board of Directors of the Corporation (the "Board") required to take action on behalf of the Corporation when the purpose or effect of the deliberations is to determine or result in joint conduct of official business of the Board of Directors, but does not include (a) deliberations to determine whether meetings will be open or closed or whether information pertaining to closed meetings will be disclosed, (b) staff briefings of Board members, and (c) informal background discussions among Board members and staff which clarify issues and expose varying views.

§ 4102.3 Open meetings.

Except as provided in § 4102.4 every portion of every meeting of the Board shall be open to public observation. Board members shall not jointly conduct or dispose of official agency business other than in accordance with this Statement.

§ 4102.4 Exemptions.

(a) The Board may close a meeting or portion of a meeting and withhold information pertaining to such meeting, where it determines that disclosure of information pertaining to such meeting or portion thereof is likely to:

(1) Relate solely to the internal personnel matters, rules, and practices of the Corporation;

(2) Disclose matters specifically exempted from disclosure by statute (other than 5 U.S.C. 552b): Provided, that such statute (i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(3) Disclose trade secrets or commercial or financial information obtained from a person and privileged or confidential;

(4) Involve accusing and person of a crime, or formally censuring any person;

(5) Disclose information of a personal nature where diclosure would constitute a clearly unwarranted invasion of personal privacy;

(6) Disclose information contained in or related to reports on performance or financial evaluations of grantees or contractors who have not had an opportunity to review and comment totally upon such reports;

(7) Disclose information the premature disclosure of which would:

(i) Be likely to compromise the interests of the Corporation in business matters under negotiation or during competitive bidding procedures; or

(ii) Be likely to significantly frustrate implementation of a proposed Corporation action, except that this paragraph (a)(7)(ii) shall not apply in any instance where the Corporation has already disclosed to the public the content or nature of its proposed action, or where the Board is required by law to make such disclosure on its own initiative prior to taking final action on such proposal; or

(8) Specifically concern the Corporation's participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition of a particular matter involving a determination on the record after opportunity for a hearing.

(b) A meeting or portions of a meeting shall not be closed nor information withheld pursuant to paragraph (a) of this section if the Board finds that the public interest requires that the meeting or portion or portions of the meeting be open to public observation or that such information should not be withheld.

§ 4102.5 Closed meetings.

(a) *Meetings closed under regular procedures.* (1) A meeting or portion thereof will be closed to public observation under regular procedures, or information pertaining to such meeting or portion of a meeting will be withheld, only by recorded vote of a majority of the members of the Board when it is determined that such meeting or portion or the withholding of such information qualifies for exemption under § 4102.4(a) and the Board does not find that the public interest requires otherwise.

(2) Except as provided in the next paragraph of this section, a separate vote of the Board members will be taken with respect to the closing or the withholding of information as to each meeting or portion thereof which is proposed to be closed to public observation, or with respect to which information is proposed to be withheld.

(3) A single vote may be taken with respect to a series of meetings, a portion or portions of which are proposed to be closed to public observation, or with respect to any information concerning such series of meetings proposed to be withheld, so long as each meeting in such series involves the same particular matters and is scheduled to be held no more than thirty days after the initial meeting in such series.

(4) Whenever any person's interests may be directly affected by a portion of a meeting for any of the reasons referred to in § 4102.4(a) (4), or (5), or (6) person may send a written request to the Secretary of the Corporation asking that such portion of the meeting be closed to public observation. The Secretary, or in his absence the Acting Secretary, will transmit the request to the Board members and upon the request of any one of them a recorded vote will be taken whether to close such meeting to public observation.

(5) Within one day of any vote taken pursuant to this section, the Corporation will make publicly available at or through the Office of the Secretary a written copy of such vote reflecting the vote of each Board member on the question. If a meeting or a portion of a meeting is to be closed to public observation, the Corporation within one day of the vote taken pursuant to this section, will make publicly available at or through the Public Information Office a full, written explanation of its action closing the meeting or portion of the meeting together with a list of all persons expected to attend the meeting and their affiliation, except to the extent such information is determined by the Board to be exempt from disclosure under § 4102.4 (a).

(b) *Recordkeeping.* (1) A complete transcript or recording shall be made and maintained of the proceedings at each meeting or portion thereof closed to the public under this part, except that, where appropriate, minutes may be made and maintained in lieu of such transcript or recording with respect to meetings closed or information withheld under § 4102.4(a) (6), (7)(i) or (8). Such minutes shall fully and clearly describe all matters discussed and provide a full and accurate summary of any action taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any rollcall vote (reflecting the vote of each Board member on the question). All documents considered in connection with any action shall be identified in such minutes.

(2) Such transcript, electronic recording, or minutes of the discussion of any item on the agenda, or of any item of the testimony of any witness received at the meeting, shall be made promptly available to the public at or through the Public Information Office, except for such item or items of such discussion or testimony as have been determined to contain information which may be withheld under § 4102.4(a). Copies of such transcript or minutes or a transcription of such recording, disclosing the identity of each speaker shall be furnished to any person at the actual cost of duplication or

transcription. The Secretary shall maintain a complete verbatim copy of the transcript or a complete electronic recording of each meeting, or portion of a meeting, closed to the public for a period of at least two years after such meeting, or until one year after the conclusion of any Board proceeding with respect to which the meeting or portion thereof was held, whichever occurs later.

(3) For every meeting or portion thereof closed pursuant to this section, the General Counsel (or in his absence or incapacity the senior legal officer of the Corporation) shall certify that such closure is authorized by law, including a statement pertaining to the relevant exemptive provision or provisions of law. A copy of such certification, together with a statement from the presiding officer of the meeting setting forth the time and place of the meeting and the persons (other than staff) present shall be retained by the Board.

§ 4102.6 Public announcements of meetings.

(a) Except as otherwise provided in this section, public announcement of open meetings and meetings or portions thereof closed under § 4102.5(b) will be made at least one week in advance of each meeting. Except to the extent that such information is determined to be exempt from disclosure under § 4102.4(a) each such public announcement will state the time, place and subject matter of the meeting, whether it is to be open or closed to the public, and the name and telephone number of the official designated to respond to requests for information about the meeting. Each such announcement shall be posted in the lobby of the Corporation's principal office, and may be made available by other means or at other locations as may be deemed desirable by the Board. Immediately following each public announcement, the stated information shall also be submitted for publication in the **Federal Register.**

(b) Where a majority of the Board members determine by recorded vote that agency business requires that a meeting be called at any earlier date, the one-week prior-announcement rule shall be suspended and announcement shall be made at the earliest practicable time.

(c) Change of the time or place of a meeting following public announcement may be made only if announced at the earliest practicable time.

(d) Change of the subject matter of a meeting or redetermination to open or close a meeting or portions thereof may be made after public announcement only if a majority of the Board determines by recorded vote that agency business so requires and no earlier announcement of the change was possible, and public announcement of such change and the vote of each member upon such change is made at the earliest practicable time.

4102.7. Accommodations for public attendance at open meetings.

Unless otherwise specified, open meetings are held in the Board Room, Sixth Floor, at 1700 G Street, NW., Washington, D.C., at the time and on the date specified in the advance public notice. Interested members of the public may attend such meetings, but may not participate therein unless invited or permitted to do so by the Board.

PART 4104—NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

§ 4104.1 Nondiscrimination in federally assisted programs.

In accordance with the terms of Interagency Agreement No. H–51–74, as amended between the Department of Housing and Urban Development and the Federal Home Loan Bank Board, and of an agreement between the Federal Home Loan Bank Board and the National Neighborhood Reinvestment Corporation ("the Corporation") dated April 5, 1979, the Corporation's regulations regarding nondiscriminatory administration of its programs are identical to regulations entitled "Nondiscrimination in Federally Assisted Programs," published by the Federal Home Loan Bank Board beginning at 12 CFR 529.1, as the same may from time to time, be amended. Assistance from the Corporation pursuant to the agreements cited, shall be considered "federal financial assistance" as that term is used in those regulations.

(Title VI, Pub. L. 95–557, 92 Stat. 2115 (42 U.S.C. 8101 et seq.))

[FR Doc. 79–35707 Filed 11–19–79; 8:45 am]
BILLING CODE 0000–00–M

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24 CFR Part 4103

Availability and Character of Records

AGENCY: Neighborhood Reinvestment Corporation.

ACTION: Interim Final Regulation; requests for comments.

SUMMARY: In accordance with provisions of 5 U.S.C. 552, and the Neighborhood Reinvestment Corporation Act, 42 U.S.C. 8103(g) the Corporation shall publish for the guidance of the public, descriptions of the established places at which, the officers from whom, and the methods whereby, the public may secure information, make submittals or requests, or obtain decisions. As required in 5 U.S.C. 552(4)(A), public comment is invited on Part 4103.4(e), Fees for providing copies of records.

DATES: Effective date: April 25, 1979. Comments must be received before December 15, 1979.

ADDRESS: Comments should be addressed to Donnie L. Bryant, Secretary, Neighborhood Reinvestment Corporation, 1700 G Street, N.W., Fifth Floor, Washington, D.C. 20552.

FOR FURTHER INFORMATION CONTACT: Donnie L. Bryant, 202–377–6480.

Dated: November 14, 1979.

Donnie L. Bryant,

Secretary.

Accordingly, Title 24 of the Code of Federal Regulations, Chapter XXV is amended by adding Part 4103 to read as follows:

PART 4103—STATEMENT OF NEIGHBORHOOD REINVESTMENT CORPORATION AVAILABILITY AND CHARACTER OF RECORDS

Sec.

4103.1 Basis and scope.
4103.2 Definitions.
4103.3 Published information.
4103.4 Access to records.
4103.5 Information not disclosed.
4103.6 Subpoenas.

Authority.—The Neighborhood Reinvestment Corporation Act, Title VI, Housing and Community Development Amendments of 1978, Pub. L. 95–557; sec. 604(g), 42 U.S.C. 8103(g), makes the Neighborhood Reinvestment Corporation (referred to in this statement as "the Corporation") subject to the provisions of 5 U.S.C. 552, as amended.

§ 4103.1 Basis and scope.

The Neighborhood Reinvestment Corporation Act and Section 552 of Title 5 of the United States Code, provide that the Corporation shall publish in the **Federal Register** for the guidance of the public, descriptions of the established places at which, the officers from whom, and the methods whereby, the public may secure information, make submittals or requests, or obtain decisions.

§ 4103.2 Definitions.

As used in this statement:

(a) "Information of the Corporation" means all information coming into the possession of any Director, officer, or employee of the Corporation as a result of his or her service with the Corporation and in the performance of duties for or on behalf of the

Corporation, whether located at the offices of the Corporation or elsewhere.

(b) "Records of the Corporation" means rules, statements, opinions, orders, memoranda, interpretations, letters, reports, accounts, and other papers that contain information of the Corporation.

(c) "Person" includes any individual, firm, corporation, organization or other entity.

§ 4103.3 Published information.

(a) **Federal Register.** As required by sections 552 of Title 5 of the United States Code, and subject to the provisions of section 5 of this Statement, the Corporation publishes in the **Federal Register** for the guidance of the public, in addition to this Statement:

(1) Descriptions of its central and field organization and the established places at which, the employees from whom, and the methods whereby, the public may obtain information, make submittals, and obtain decisions;

(2) Statements of the general course and methods by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;

(3) Rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;

(4) Substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the Corporation.

(5) Every amendment, revision, or repeal of the foregoing; and

(6) General notices.

(b) *Annual report.* The Corporation's Annual Report to the President and the Congress, made pursuant to section 607(a) of the Neighborhood Reinvestment Corporation Act, (42 U.S.C. 8106(a)), which is published after its submission to the President and the Congress, covers the operations of the Corporation.

(c) *Compendium of Basic Documents, Policies, and Interpretations.* The corporation will maintain a Compendium of Basic Documents, Policies and Interpretations which contains: (1) the statutes under which the Corporation operates; (2) the statements of policy promulgated by the Board or by the Executive Director pursuant to authority of the Board; (3) digests of opinions rendered by the Office of General Counsel; and (4) other basic policy material relating to the Corporation's operations. The Compendium will be supplemented as necessary to provide current information. A free copy of the Compendium will be available to any person requesting it from the Corporation's Public Information Office.

(d) *Other published information.* From time to time, the Corporation may issue statements to the press regarding particular statements of policy, actions with respect to certain types of applications to the Corporation, and other matters. In addition, the Corporation issues various publications, relating to its programs, projects, and other operations.

(e) *Access to publications.* The publications referred to in paragraphs (b), (c), and (d) of this section may be examined and, if available, copies may be obtained at the offices of the Corporation at the times and the address set forth in paragraph (d) of § 4103.4.

§ 4103.4 Access to records.

(a) *General rule.* All records of the Corporation are made available to any person for inspection and copying in accordance with the provisions of this section and subject to the limitations stated in § 4103.5 of this Statement. It is the policy of the Corporation to disclose its records to the public, even though such records may, in Neighborhood Reinvestment's discretion, be exempted from disclosure by section 552 of Title 5 of the United States Code or by § 4103.5 of this Statement, wherever such disclosure can be made without resulting in injury to a public or private interest intended to be protected by the foregoing statute or in a significant interference with the statutory responsibilities of the Corporation and the national interest. Requests for information which can be produced only by processing through an information system program especially designed for that purpose are not regarded as requests for identifiable records that must be disclosed pursuant to section 552 of Title 5 of the United States Code; but it is the policy of the Corporation to make such information available if it is not otherwise exempt from disclosure, provided that the retrieval or production of such information does not unduly burden or interfere with the functioning of the Corporation.

(b) *Opinions, orders, statements of policy, interpretations, and staff manuals and instructions.* Subject to the provisions of § 4103.5 of this Statement, the Corporation makes available for inspection and copying (1) all resolutions of the Corporation's Board of Directors (including the recorded votes of individual Directors) and all decisions made in the ordinary conduct of Board operations; (2) statements of policy and interpretations adopted by the Corporation that are not published in the **Federal Register;** and (3) administrative staff manuals and instructions to staff that affect any member of the public. However, to the extent required to prevent a clearly unwarranted invasion of personal privacy, the Corporation may delete identifying details in any material of the kinds above-described; and in each such case the justification for such deletion will be fully explained in writing. The Corporation maintains and makes available for public inspection and copying a current index providing identifying information for the public as to any material described in this paragraph which is issued, adopted, or promulgated after April 1, 1979.

(c) *Other records.* Subject to the provisions of § 4103.5 of this Statement, a record of the final vote of each member of the Corporation's Board of Directors in any proceeding of the Board of Directors is available for public inspection.

(d) *Requests for records and other information.* When records and other information of the Corporation subject to this section are available, they may be inspected or copied during regular business hours on regular business days at the Public Information Office of the Corporation, Fifth Floor, 1700 G Street NW., Washington, D.C. Any person requesting access to, or copying of, such records or other information shall submit such request in writing to the Public Information Office of Neighborhood Reinvestment. The request shall state the full name and address of the person and a description of the records or other information sought that is reasonably sufficient to permit their identification without undue difficulty. A request should be submitted sufficiently in advance of the date inspection or copying is desired, preferably by mail.

(e) *Fees for providing copies of records.* (1) A person requesting access to or copies of particular records shall pay the cost of searching or copying such record at the rate of $10 per hour for searching and 10 cents per page for copying. Records may be furnished without charge or at a reduced charge where the Executive Director determines that waiver or reduction of fees is in the public interest because furnishing the information can be considered as primarily benefiting the general public. Unless a requestor states in his initial request that he will pay all costs regardless of amount, he shall be notified as soon as possible if there is

reason to believe that the cost for obtaining access to and/or copies of such records will exceed $50. If such notice is given, the time limitations contained elsewhere in this Statement shall not commence until the requestor agrees in writing to pay such cost. The Public Information Officer is authorized to require an advance deposit whenever in his judgment such a deposit is necessary to insure that the Corporation will receive adequate reimbursement of its costs. If such a deposit is required, the time limitations contained elsewhere in this Statement shall not commence until the deposit is paid.

(2) The Public Information Officer is authorized to waive payment in instances in which total charges are less than three dollars.

(f) *Initial determination.* (1) The Public Information Officer or his designee, shall determine within ten days (excepting Saturdays, Sundays, and legal public holidays) after the receipt by the Public Information Officer of a written request for records or other information of the Corporation whether, or the extent to which, the Corporation will comply with such request.

(2) Upon determination by the Public Information Officer or his designee, with respect to a request for records or other information of the Corporation the Public Information Officer shall immediately send written notification to the person making the request. If the request is denied, in whole or in part, said notification shall include the reasons therefor and shall advise such person that such determination is not a final agency action and of the right to appeal therefrom under paragraph (g) of this section.

(g) *Appeal procedure.* (1) In the event of any denial under paragraph (f) of this section, the person making the request may, within 30 calendar days of the date of written notification thereof, appeal from said denial by written application, stating the grounds therefor, to the Public Information Officer at the address set forth in § 4103.4(d).

(2) The Executive Director shall make a determination with respect to the appeal within 20 days (excepting Saturdays, Sundays, and legal public holidays) after receipt of said application by the Public Information Officer. If on appeal the denial of the request for records is upheld, in whole or in part, the Public Information Officer shall promptly notify the applicant in writing of such determination and of the provisions for judicial review thereof under 5 U.S.C. 552(a)(4).

(h) *Appeal during pendency of action for judicial review.* If a suit is filed in a district court of the United States under 5 U.S.C. 552(a)(4) in any case in which an initial adverse determination, in whole or in part, has been issued, regardless of whether or not the suit is premature, (1) the Corporation may continue to process any appeal therefrom under paragraph (g) of this section, or (2) if the person making the request has not appealed under said paragraph (g), the Corporation may initiate and process an appeal from such determination.

(i) *Time extension in unusual circumstances.* In unusual circumstances as provided in this paragraph, the time limitations prescribed in paragraph (f) or (g) of this section may be extended for not more than ten additional working days by written notice to the person making the request setting forth the reasons for such extension and the date on which a determination of the request or appeal is expected to be dispatched. As used herein, "unusual circumstances" means:

(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request; or

(2) The need to search for, collect and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(3) The need for consultation with an agency having substantial interest in the determination of the request or the appeal, or among two or more components of the Corporation having substantial subject-matter interest therein.

(j) *Time limitations.* All time limitations established pursuant to this section with respect to initial determination and appeals therefrom shall begin as of the time that a written request for records or other information of the Corporation or the appeal from such determination, is actually received by the Public Information Officer.

§ 4103.5 Information not disclosed.

(a) *General rule.* Except as otherwise provided in this Part, or as may be specifically authorized by the Board of Directors, information of the Corporation that has not been published in accordance with § 4103.3 of this Part and is not available to the public through other sources will not be made available to the public or otherwise disclosed if such information is—

(1) Exempt from disclosure by statute or executive order;

(2) Privileged or related to the business, personal, or financial affairs of any person and is furnished in confidence;

(3) Related solely to the internal personnel matters, rules, or practices or other internal practices of the Corporation;

(4) Contained in personnel, medical, and similar files (including financial files), the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; or

(5) Contained in the Corporation memoranda or letters that would not be routinely available by law to a private party in litigation with the Corporation, including but not limited to memoranda, reports, and other documents prepared by the Corporation's staff, or by others acting as agents of the Corporation, and records of deliberations and discussions at meetings of the Board of Directors not required to be open, at meetings of the Corporation's staff.

(b) Any reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt from disclosure under this section.

(c) *Prohibition against disclosure.* Except as authorized by this Statement or otherwise by the Corporation, no officer, employee, or agent of the Corporation shall disclose or permit the disclosure of any unpublished information of the Corporation to anyone (other than an officer, employee, or agent of the Corporation properly entitled to such information for the performance of his official duties), whether by giving out or furnishing such information or a copy thereof, or otherwise. Notwithstanding the foregoing, unpublished economic, statistical or similar information or unpublished information regarding interpretations by the Corporation of statutory or regulatory provisions may be disclosed, orally or in writing, by any officer, employee, or agent of the Corporation, acting in his capacity as agent of the Corporation, subject, however, to the restrictions stated in § 4103.5.

§ 4103.6 Subpoenas.

Advice by person served. If any person, whether or not an officer or employee of the Corporation, has information of the Corporation that may not be disclosed under this Statement and in connection therewith is served with a subpoena, order, or other process requiring his personal attendance as a witness or the production of documents or information in any proceeding, he shall promptly advise the Executive Director of such service and of all relevant facts, including the documents and information requested and any facts which may be of assistance to the

Executive Director in determining whether such documents or information should be made available; and he shall take action at the appropriate time to advise the court or tribunal which issued the process and the attorney for the party at whose instance the process was issued, if known, of the substance of these rules.

[FR Doc. 79-35708 Filed 11-19-79; 8:45 am]

BILLING CODE 0000-00-M

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 535

Iranian Assets Control Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Foreign Assets Control is amending the Iranian Assets Control Regulations by the addition of new §§535.320, 535.508, 535.533, 535.903 and 535.904. The purpose of the amendments is to add general licenses to the Regulations authorizing (1) the transfer of funds by any person to a blocked account in a domestic bank, (2) transactions incident to exportations to Iran where the exportation is licensed after the effective date by the Department of Commerce, (3) shipments of certain types of blocked property, such as food, clothing, medical supplies, eductional materials, certain goods in transit, and personal baggage, provided there is no debit to a blocked account, and (4) the transfer of non-blocked funds to U.S. banks or other U.S. persons solely for purposes of payment of obligations owed by Iranian entities to persons within the United States. The need for the amendments is that transactions in blocked assets are prohibited without a license. The effect of the amendments is that exports licensed by the Department of Commerce after the effective date, exports of certain types of blocked property, payment or transfer of blocked assets into blocked accounts in domestic banks, and transfers of payments by, through or to U.S. banks and other persons for purposes of payment of obligations owed by Iranian nationals, are authorized. The regulations also include a definition for the term domestic bank.

EFFECTIVE DATE: November 14, 1979.

FOR FURTHER INFORMATION CONTACT: Dennis M. O'Connell, Acting Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, Washington, D.C. 20220 (202) 376-0236

SUPPLEMENTARY INFORMATION: Since the regulations involve a foreign affairs function, the provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, the opportunity for public participation and a delay in effective date are inapplicable.

The Iranian Assets Control Regulations are amended by the addition of §§535.320, 535.508, 535.533, 535.903, and 535.904.

§535.320 Domestic bank.

The term "domestic bank" shall mean any branch or office within the United States of any of the following which is not a national of a designated foreign country: Any bank or trust company incorported under the banking laws of the United States or of any State, territory, or district of the United States, or any private bank or banker subject to supervision and examination under the banking laws of the United States or of any State, territory or district of the United States. The Secretary of the Treasury may also authorize any othe banking institution to be treated as a "domestic bank" for the purpose of this definition or for the purpose of any or all sections of this part.

§ 535.508 Payments to blocked accounts in domestic banks.

(a) Any payment or transfer of credit, including any payment or transfer by any U.S.-owned or controlled foreign firm or branch to a blocked account in a domestic bank in the name of Iran or any Iranian entity is hereby authorized: *Provided,* Such payment or transfer shall not be made from any blocked account if such payment or transfer represents, directly or indirectly, a transfer of the interest of Iran or an Iranian entity to any other country or person.

(b) This section does not authorize:

(1) Any payment or transfer to any blocked account held in a name other than that of Iran or the Iranian entity who is the ultimate beneficiary of such payment or transfer; or

(2) Any foreign exchange transaction including, but not by way of limitation, any transfer of credit, or payment of an obligation, expressed in terms of the currency of any foreign country.

(c) This section does not authorize any payment or transfer of credit comprising an integral part of a transaction which cannot be effected without the subsequent issuance of a further license.

(d) This section does not authorize the crediting of the proceeds of the sale of securities held in a blocked account or a sub-account thereof, or the income derived from such securities to a blocked account or sub-account under any name or designation which differs from the name or designation of the specific blocked account or sub-account in which such securities were held.

(e) This section does not authorize any payment or transfer from a blocked account in a domestic bank to a blocked account held under any name or designation which differs from the name or designation of the specified blocked account or sub-account from which the payment or transfer is made.

(f) The authorization in paragraph (a) of this section is subject to the condition that a notification from the domestic bank receiving an authorized payment or transfer is furnished by the transferor to the Office of Foreign Assets Control confirming that the payment or transfer has been deposited in a blocked account under the regulations in this part and providing the name and address of Iran or the Iranian entity in whose name the account is held.

§ 535.533 Transactions involving exportations to Iran.

(a) All exports and all transactions ordinarily incident to the exportation of goods, wares and merchandise from the United States to Iran or any person within Iran are hereby authorized: *Provided,* The following terms and conditions are complied with:

(1) The exportation is authorized pursuant to a validated license issued by the Department of Commerce after the effective date under the provisions of the Export Administration Act of 1979, as amended (sec. 4, 93 Stat. 503, 50 U.S.C. App. 2401); and

(2) Banking institutions within the United States, prior to issuing, confirming or advising letters of credit, or accepting or paying drafts drawn, or reimbursing themselves for payments made, under letters of credit, or making any other payment or transfers of credit, in connection with any exportation pursuant to this section, or engaging in any other transaction herein authorized, shall satisfy themselves that: (i) Each such transaction is incident to a bona fide exportation and is customary in the normal course of business, and that the value of such exportation reasonably corresponds with the sums of money involved in financing such transaction; and

(ii) Such exportation is made pursuant to all the terms and conditions of this section.

(b) This section does not authorize the financing of any transaction from any blocked account.

§ 535.903 Authorization of exports of certain types of blocked property to Iran.

All transactions ordinarily incident to the export to Iran of the following types of blocked property:

(a) Medicines, medical supplies, medical equipment;

(b) Agricultural commodities, products, and equipment; seeds, fertilizer, pesticides; fish;

(c) Clothing (other than military), blankets, mosquito netting, textile products;

(d) Educational materials;

(e) Foreign-origin commodities transiting the U.S.;

(f) Crew baggage, aircraft, ship stores, plane stores; are hereby authorized: *Provided,* That no payment therefor may be made by debit to any blocked account. The transfer of funds after the effective date by, through or to any U.S. banking institution or other U.S. person for purposes of payments of U.S. persons for such exportation is authorized. Funds are not blocked by virtue of being transferred or received pursuant to this section.

§ 535.904 Payment by Iranian entities of obligations to persons within the United States.

The transfer of funds after the effective date by, through or to any U.S. banking institution or other person within the United States solely for purposes of payment of obligations by Iranian entities owed to persons within the United States is authorized: *Provided,* That there is no debit to a blocked account. Property is not blocked by virtue of being transferred or received pursuant to this section.

(Secs. 201–207, 91 Stat. 1626; 50 U.S.C. 1701–1706; E.O. No. 12170, 44 FR 65729).

Dated: November 16, 1979.

Stanley Sommerfield,

Director.

Approved:

Richard J. Davis,

Assistant Secretary.

[FR Doc. 79-35936 Filed 11-19-79; 8:45 am]

BILLING CODE 4810-25-M

OFFICE OF THE VICE PRESIDENT OF THE UNITED STATES

32 CFR Chap. XXVIII

Procedures for Security of Classified Information and Materials

AGENCY: Office of the Vice President of the United States.

ACTION: Final rule.

SUMMARY: This directive establishes procedures and provides guidance for the security of classified information and material within the Office of the Vice President in accordance with Executive Order 12065 of June 28, 1978 and Information Security Oversight Office Directive No. 1 of October 2, 1978.

EFFECTIVE DATE: October 15, 1979.

FOR FURTHER INFORMATION CONTACT: Ralph E. Martin, Staff Security Officer, Office of the Vice President, Room 294, Old Executive Office Building, Washington, D.C. 20501, Telephone: (202) 395–4223.

Ralph E. Martin,

Staff Security Officer.

November 7, 1979.

Title 32 of the Code of Federal Regulations is amended by establishing a Chapter XXVIII—Office of the Vice President of the United States and by adding a new Part 2800 as follows:

PART 2800—SECURITY PROCEDURES

Sec.

2800.1 Purpose.
2800.2 Guiding directives.
2800.3 Policy.
2800.4 General information.
2800.5 Policies.
2800.6 Delegation of classification and declassification authority.
2800.7 Designation of chairperson for Ad Hoc Committees.
Attachment 1—Employment Agreement & Indoctrination Statement
Attachment 2—Security Termination Statement
Attachment 3—Sample

Authority: EO 12065, 43 FR 28949, 3 CFR, 1978 Comp., p. 190; (Information Security Oversight Office, Directive No. 1, 43 FR 46280, 32 CFR Chapter II.

§ 2800.1 Purpose.

To establish procedures and provide guidance for the security of classified information and material within the Office of the Vice President.

§ 2800.2 Guiding directives.

(a) Executive Order 12065, June 28, 1978, Subject: National Security Information.

(b) Information Security Oversight Office, Directive No. 1, October 2, 1978, Subject: National Security Information.

§ 2800.3 Policy.

The classification, declassification, safeguarding and handling of classified information within the Office of the Vice President will comply with the letter and spirit of those directives listed in § 2800.2. All personnel of the Office of the Vice President are responsible individually for complying with the provisions of these regulations are in all respects. The provisions of these regulations applicable to all personnel assigned or detailed to the Office of the Vice President.

§ 2800.4 General information.

(a) *Staff Security Officer/Top Secret Control Officer.* A Vice Presidential Staff Security Officer and Assistant Staff Security Officer will be assigned to perform the duties as outlined in these regulations. They will normally be on the staff of the Assistant to the Vice President for National Security Affairs. The Staff Security Officer and Assistant Staff Security Officer will serve as Top Secret Control Officer and Assistant Top Secret Control Officer and custodians of classified material for the Office of the Vice President respectively, and will be responsible for the overall supervision of the Top Secret Control program. They will maintain positive control over the movement of all Top Secret material under their jurisdiction.

(b) *Custodian, Office of the Assistant to the Vice President for Congressional Relations.* The Assistant to the Vice President for Congressional Relations, Office of the President of the Senate, will be designated as Custodian of classified material for that office. He will be responsible for compliance with the instructions contained herein. In this capacity, he will be charged with safeguarding classified material necessary to the operation of the office.

(c) *National Security Classifications.* Classifications of National Security Information are defined in Executive Order 12065, Sections 1–102 through 1–104.

(d) *Prohibited Markings.* (1) The caveats "FOR OFFICIAL USE ONLY" and "ADMINISTRATIVELY RESTRICTED" are used within the Office of the Vice President to designate certain unclassified information which requires control. These caveats will under no circumstances be applied to information which qualifies as classified information. Further, neither they nor other terms will be used in conjunction with the prescribed security classifications of CONFIDENTIAL, SECRET and TOP SECRET.

(2) Unclassified information bearing either of the foregoing administrative designations cannot be protected from release under the national security exemption of the Freedom of Information Act (although other exemptions may be available).

(e) *Security Clearances.* No person shall be given access to classified information or material unless a favorable background investigation has been completed determining that the individual is trustworthy and that

access is necessary for the performance of official duties.

(1) *Security Clearance Procedures.* (i) The Counsel to the Vice President will:

(A) Be responsible for the processing of full field investigations for personnel assigned to the Vice President's staff. Department of Defense detailees are processed by the Defense Investigative Service.

(B) Inform the Staff Security Office of individuals whose full field investigations have been satisfactorily completed and approved and of any subsequent changes.

(C) Notify the Staff Security Office as soon as he/she is aware that a staff member is planning to terminate his/her employment.

(ii) The Staff Security Office will provide newly cleared persons with a security orientation briefing covering policy and procedures for handling classified information and material. After the briefing individuals will sign a Statement of Understanding of Security Procedures (Attachment 1). This statement will be kept on file by the Staff Security Office.

(iii) There is no such thing as an "Interim Security Clearance" for persons employed by or detailed to the Office of the Vice President. Under *no* circumstances will uncleared persons be given access to classified material. Access to classified material will be denied until the individual has had a satisfactorily completed background investigation, has received the security orientation briefing and signed the Statement of Understanding of Security Procedures.

(iv) The Staff Security Office, as part of an individual's departure debriefing, will remind them of their continuing responsibilities to protect classified information to which they have had access during the performance of their official duties. After being debriefed, the individual will sign a Security Termination Statement acknowledging his responsibilities (Attachment 2).

(2) Satisfactory completion of a background investigation does not in itself grant an individual access to classified information. Individual clearances for access to classified information or material will be controlled by the Staff Security Office and certified in writing on an individual basis.

(f) *Access to Classified Material.* Each member of the staff who has custody or possession of classified information is responsible for providing the required degree of protection from unauthorized disclosure at all times.

(1) Classified information and material will only be disclosed to an individual after it has been determined that the individual possesses the required clearance and has a valid "need to know." Persons releasing the information shall be responsible in every case for determining the recipient's eligibility for access.

(2) Access to Sensitive Compartmented Intelligence Information will be controlled by the Assistant to the Vice President for National Security Affairs.

(g) *Custody and safekeeping of Classified Material.* (1) Classified material addressed to the Office of the Vice President will normally be delivered to and receipted for by the Staff Security Office where it will be entered into the classified material control system.

(i) Staff members receiving classified material from any source by any means will personally deliver such material to the Staff Security Office for appropriate entry into the classified control system.

(ii) Conversely, members of the staff desiring to transmit classified material will deliver the material to the Staff Security Office for handling in accordance with paragraph (h)(5) of this section.

(2) *Storage of Classified Material.* (i) Classified material will be stored only in accordance with the provisions of ISOO Directive No. 1, paragraph IV–F–1 through 4.

(ii) Filing of unclassified material in security containers is prohibited except where the unclassified material is an integral part of a file which contains classified material. If extenuating circumstances necessitate the use of a security container for storing only unclassified material, the container will be marked with a sign stating "This container is not used to store classified material" or "Do not store classified material in this container."

(3) *Record of safe locations.* The Staff Security Office will assign numbers to all security containers used to store classified material in the Office of the Vice President. A record of safe numbers, locations and date of last combination change will be maintained in the Staff Security Office.

(4) *Changing of lock combinations.* Combinations of security containers will be changed by the Staff Security Office or the Secret Service. This service may be requested by contacting the Staff Security Office. Combinations will be changed in accordance with the provisions of ISOO Directive No. 1, paragraph IV–F–5.

(5) *Records of combinations.* Records of combinations shall be maintained by the Staff Security Office. Whenever a combination is changed, the new combination and other required information will be recorded on GSA Optional Form 63. The sealed envelope will then be delivered to the Staff Security Office for retention in the vault safe.

(6) *Custodians.* Each container used for storage of classified material within the Office of the Vice President will have assigned a primary and alternate custodian. Responsibility for security of these containers shall rest with those persons, and their names shall be affixed on the outside of the top drawer of each container positioned so as to be readily discernible. Optional Form 63 shall be used for this purpose.

(h) *Handling of Classified Material.* (1) *Use of cover sheets.* A separate cover sheet indicating the classification of the material will be fastened to the top page of cover of each CONFIDENTIAL, SECRET or TOP SECRET document.

(2) *Unattended documents.* Classified material will be under the direct supervision of a person with an appropriate security clearance and a verified need-to-know at all times when in use. Special care will be taken to insure that classified material is not left unsecured or unattended in an office.

(3) *Working papers.* Working papers are documents, including drafts, photographs, etc., created to assist in the formulation and preparation of finished papers. Working papers containing classified information will be marked with the appropriate classification and provided the same degree of protection as that given to other documents of an equal category of classification.

(4) *Communications security.* Classified information shall not be discussed over any voice communications device except as authorized over *approved* secure communications circuits. This restriction also applies to electrical transmission of classified material via any unsecure circuitry involving teletypes, DEX equipment or other systems of a like nature. Appropriate secure facilities for the discussion or transmittal of classified material may be arranged by contacting the Staff Security Office.

(5) *Transmittal of Classified Material.* (i) *Outside the Office of the Vice President and the White House Complex.* The Staff Security Office is responsible for transmitting or transferring all classified material outside the Office of the Vice President and the White House Complex in accordance with the provisions of ISOO Directive No. 1, paragraphs I, G and H.

(ii) *Within the Office of the Vice President and the White House Complex.* Transfer or movement of

classified material will be accomplished only by properly cleared persons handcarrying the material to the recipient. The material shall be carried in an envelope marked with the appropriate classification. *Use of see through messenger envelopes is not authorized.* Recipients will sign a receipt (GSA Optional Form 112) for all material classified SECRET and TOP SECRET. Whenever TOP SECRET material is transferred, the Staff Security Office will be notified in order to maintain accurate accountability of the material. Classified material will never be delivered to an uncleared person, left in an unoccupied office, or sent through unclassified mail delivery/distribution systems.

(iii) Staff members requiring the use of classified material at conferences or meetings held outside the Washington, D.C. Metropolitan area and who intend to use commercial transportation shall provide the material to the Staff Security Office far enough in advance to assure that the material will be available on or before the date needed. This requirement does not apply when utilizing government/military transportation. In this case, material may be handcarried. The Staff Security Office will brief each staff member prior to departure concerning security requirements or arrangements needed to safeguard the material while away from his office. For meetings or conferences within the Washington, D.C. Metropolitan area, members may handcarry classified material. Use of classified material during a conference or meeting requires increased awareness and precautionary handling to avoid security violations and/or compromises. Staff members using classified material during a meeting or conference are responsible for ensuring that the material is properly protected at all times, and that personnel present posses appropriate clearances for the material being presented.

(iv) *Visits to foreign countries.* Special precautions must be taken when visiting foreign countries to ensure classified material is protected at all times. For all visits to foreign countries a member of the staff will be appointed as custodian for all classified material reqired for the success of the mission. This individual will be the holder of a diplomatic passport which exempts him from customs inspections. Individual so designated will coordinate with United States embassy personnel in the country to be visited for securing of classified material within the embassy compound or other appropriate secure area during the course of the visit.

(6) *Preparation and marking of Classified Material.* All classified material originating within the office of the Vice President will be prepared and marked by properly authorized and cleared personnel in accordance with ISOO Directive No. 1, paragraphs I, G, and H. A sample letter is attached for your guidance (Attachment 3). Derivitive information will be prepared and classified in accordance with ISOO Directive No. 1, paragraphs II A through C. Questions concerning procedures should be directed to the Staff Security Office.

(7) *Reproduction of Classified Material.* (i) Reproduction of classified material will be accomplished only by properly cleared persons.

(ii) Reproduction of TOP SECRET material will be accomplished only by a member of the Staff Security Office or a designated representative of that office.

(iii) Accountability of reproduced classified material will be maintained by informing the Staff Security Office of the reproduction of SECRET and TOP SECRET material, the number of copies reproduced and their disposition.

(iv) Reproduction machines can retain the imagery of material passed through them. Therefore, to avoid inadvertent disclosure of classified information through subsequent use of machines, staff members will *always* run machines through four cycles (four blank pages) after the last page of the classified material has been reproduced. These pages will be destroyed in the same manner as classified material.

(8) *Destruction of Classified Material.* (i) SECRET and TOP SECRET material will be given to the Staff Security Office for destruction to insure destruction is properly recorded and destroyed material is removed from the classified control system.

(ii) CONFIDENTIAL material may be destroyed in the holder's office by tearing lengthwise and placing in a "Burn Bag" specifically designated for classified material.

(iii) Classified waste material will be separated from other office waste material and placed in "Burn Bags." Classified waste material includes working papers, notes, drafts of classified correspondence, carbon paper, typewriter ribbons and any other material containing information requiring destruction. "Burn Bags" will be collected daily by a member of the White House Executive Protective Service who will then dispose of the bags in a secure facility.

(iv) *Typewriter ribbons.* Classified material can be reproduced from imprints on used typewriter ribbons. Therefore, ribbons which are used in the preparation of classified material must be safeguarded accordingly, i.e., they will be stored in a safe at the close of business, destroyed as classified waste when no longer serviceable, etc.

(9) *Inventories.* The Staff Security Office will conduct inventories of all TOP SECRET material charged to the Office of the Vice President at least annually to determine the adequacy of control procedures and insure accountability.

(i) *Loss or compromise.* Any person who has knowledge of loss of possible compromise of classified information shall promptly report the circumstances to the Staff Security Office for appropriate action in accordance with ISOO Directive No. 1, paragraph IV, H.

(j) *Penalties.* Any individual breach of security may warrant penalties up to and including the separation of the individual from his employment or criminal prosecution.

(k) *Special access.* Special access authority is required for release of Sensitive Compartmented Intelligence Information. The names of personnel cleared for access to this category of information are on file in the Staff Security Office.

§ 2800.5 Policies.

(a) *Basic policy.* Except as provided in the Atomic Energy Act of 1943, as amended, Executive Order 12065, as implemented by ISOO Directive No. 1, provides the only basis for classifying information. It is the policy of this office to make available to the public as much information concerning its activities as possible consistent with the need to protect the national security. Accordingly, security classification shall be applied only to protect the national security.

(b) *Duration of classification.* Classification shall not be continued longer than necessary for the protection of national security. Each decision to classify requires a simultaneous determination of the duration such classification must remain in effect. For further guidance, refer to Sections 1–401 and 1–402, E.O. 12065.

(c) *Declassification.* Declassification of information shall be given emphasis comparable to that accorded to classification. Decisions concerning declassification shall be based on the loss of the information's sensitivity with the passage of time or upon the occurrence of a declassification event. For further guidance, refer to Sections 3–102, 3–103 and 3–104 of E.O. 12065.

(d) *Systematic review for declassification.* Systematic review for declassification will be in accordance

with Sections 3–204, 3–401 and 3–503 of E.O. 12065.

(e) *Mandatory review requests.* Requests from a member of the public, a government employee, or an agency, to declassify and release information will be acted upon within 60 days provided the request reasonably identifies the information. After review, the information or any reasonably segregable portion thereof that no longer requires protection, shall be declassified and released, except as provided in Section 3–503, E.O. 12065, unless withholding is otherwise warranted under applicable law.

(f) *Classification guides.* The Chief Counsel, National Security Council, has determined that, in view of the limited amount of material originally classified by this office, the preparation and publication of classification guides is not required.

(g) *Access to Classified Information by historical researchers and former Presidential appointees.* Access may be granted under the provisions of Section 4–3 of E.O. 12065; however, access is permissive and not mandatory.

§2800.6 Delegation of classification and declassification authority.

Pursuant to the provisions of Sections 1–201 and 3–103 of E.O. 12065 of June 28, 1978, the following officials within the Office of the Vice President, are designated to originally classify and declassify information as "SECRET" and/or "CONFIDENTIAL":

(a) Chief of Staff to the Vice President.

(b) Counsel to the Vice President.

(c) Executive Assistant to the Vice President.

(d) Assistant to the Vice President for National Security Affairs.

(e) Assistant to the Vice President for Issues Development and Domestic Policy.

(f) Additionally, the following individuals are designated to declassify "SECRET" and/or "CONFIDENTIAL" information in accordance with Section 3–103 of E.O. 12065:

(i) Staff Security Officer/Top Secret Control Officer.

(ii) Assistant Staff Security Officer/ Assistant Top Secret Control Officer.

§ 2800.7 Designation of Chairperson for Ad Hoc Committees.

The Counsel to the Vice President is designated as the responsible official to chair Ad Hoc Committees as necessary to act on all suggestions and complaints with respect to the administration of the information security program.

BILLING CODE 3195-01-M

Attachment 1

OFFICE OF THE VICE PRESIDENT

WASHINGTON

EMPLOYMENT AGREEMENT & INDOCTRINATION STATEMENT

As consideration for employment with the Office of the Vice President and as a condition for continued employment I hereby declare that I intend to be governed by and I will comply with the following provisions:

1. By virtue of the performance of my official duties while employed by or assigned to the Office of the Vice President, I expect to be the recipient of classified information, materials, plans or intelligence data which concern the national defense and foreign relations of the United States and which are the property of the United States Government. I have been furnished and I understand the provisions of (a) the Espionage Act, Title 18, USC, Section 793 and 794, concerning the disclosure of information relating to the national defense of the United States and the penalties provided for violations thereof; (b) Title 18, USC, Section 1001, concerning the making of false statements; and (c) Executive Order 12065 entitled "National Security Information."

2. I understand that one of the obligations of my employment by or assignment to the Office of the Vice President is strict compliance with the provisions of Federal laws, directives and regulations with respect to the safeguarding of classified information of the United States Government from unauthorized disclosure.

3. I agree that in the course of my employment by or assignment to the Vice President's staff and subsequent thereto, I will not divulge, publish or reveal by any means any classified information, intelligence data or knowledge which I may acquire by virtue of such employment, except as authorized by competent authority pursuant to the provisions of Federal statutes, regulations and directives. Should an attempt be made by any unauthorized person to obtain classified information from me I will report such incident to the Staff Security Officer for the Office of the Vice President, the nearest office of the Federal Bureau of Investigation or to the nearest U.S. Embassy, Consulate or U.S. Military Command.

4. I understand that upon the termination of my employment by or assignment to the Vice President's staff, none of the classified information or material to which I have access or which I have originated in the course of that employment or assignment may be removed or retained by me, except as authorized by competent authority.

5. I understand that a change in my assignment or employment will not relieve me of my obligations under this statement, and that the provisions of this statement will remain binding upon me after termination of my service with the Office of the Vice President and my services with the United States Government.

_____

Signature

Witnessed and accepted in behalf of the Vice President of the United States on

_____, 19__, by _____

Attachment 2

OFFICE OF THE VICE PRESIDENT

WASHINGTON

SECURITY TERMINATION STATEMENT

On the occasion of the termination of my employment by or assignment to the staff of the Office of the Vice President, I hereby state that:

1) I am not retaining possession of or taking with me any document or other material containing classified information affecting the national defense or foreign relations of the United States.

2) I will not hereafter in any manner reveal or divulge any such classified information of which I have gained knowledge during my employment by or assignment to the Office of the Vice President, except as authorized by competent authority pursuant to the provisions of Federal statutes, regulations and directives. Should an attempt be made by any unauthorized person to obtain such classified information from me, I will report the incident to the Staff Security Officer of the Office of the Vice President, the nearest office of the Federal Bureau of Investigation, or the nearest U.S. Embassy, Consulate, or U.S. Military Command.

3) I have read and understand the provisions of the Espionage Act, Title 18, USC, Sections 793 and 794, concerning unlawful disclosure of information affecting the national defense, and the provisions of Title 18, USC, Section 1001, regarding the making of false statements. With this understanding, I state that the information I have given herein is, to the best of my knowledge and belief, correct and complete and is being furnished to the U.S. Government for purposes of protection of classified information which affects the national defense, or foreign relations, of the United States.

_____ date

_____ signature

_____ WITNESS

_____ name (typed or printed)

SAMPLE

TOP SECRET

Attachment 3

OFFICE OF THE VICE PRESIDENT

WASHINGTON

January 25, 1979

MEMORANDUM FOR The Vice President

FROM: A. Staff Member

SUBJECT: Classified Markings (U)

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Classified by Director, XXX
Declassify on January 24, 1984
Review for Declassification on January 24, 1984
Downgrade to_____on_____

} Enter appropriate terminology

SAMPLE

TOP SECRET

SAMPLE

[FR Doc. 79-35629 Filed 11-19-79; 8:45 am]
BILLING CODE 3195-01-C

DEPARTMENT OF THE INTERIOR

Heritage Conservation and Recreation Service

36 CFR Part 1212

National Natural Landmarks Program

AGENCY: Heritage Conservation and Recreation Service, Department of the Interior.

ACTION: Interim Regulations and request for comments.

SUMMARY: These interim regulations set forth the process used to study, designate, register and monitor National Natural Landmarks, including criteria for listing areas on the National Registry of Natural Landmarks. These interim regulations will make available to other Federal agencies, State and local governments, private organizations and individuals information on the National Natural Landmarks Program, and formalize the Secretary of the Interior's procedures and criteria for designating National Natural Landmarks.

DATES: Effective November 20, 1979, as interim regulations for program activities originating on or after the effective date of these regulations. Program activities ongoing at the time of publication will be undertaken in accordance with previous guidelines and procedures. Interested parties are encouraged to submit written comments or recommendations concerning these proposed regulations by January 21, 1980.

ADDRESSES: Comments should be sent to the Director, Heritage Conservation and Recreation Service, 440 G Street, NW., Washington, D.C. 20243. (Attn: Division of State Heritage programs).

FOR FURTHER INFORMATION CONTACT: Mr. Arthur L. Stewart, Acting Chief, Division of State Heritage Programs, Heritage Conservation and Recreation Service, 440 G Street, NW., Washington, D.C 20243, (202–343–4243).

SUPPLEMENTARY INFORMATION: The following interim regulations reflect changes which have been made in the National Natural Landmarks Program since it was transferred from the National Park Service to the Heritage Conservation and Recreation Service on January 25, 1978. Administration of the National Natural Landmarks Program by the Heritage Conservation and Recreation Service is currently evolving and subject to additional changes. However, since other Federal programs, State and local governments, and private organizations and individuals are in need of definitive guidance at the present time, these regulations are to be considered as in force immediately on an interim basis pending publication of final regulations.

The National Natural Landmarks Program was established in 1963 by the Secretary of the Interior to encourage the preservation of areas that illustrate the ecological and geological character of the United States, to enhance the educational and scientific values of the areas thus preserved, to strengthen cultural appreciation of natural history, and to foster a wider interest and concern in the conservation of the nation's natural heritage.

Areas designated as National Natural Landmarks are listed on the National Registry of Natural Landmarks, which is periodically published in the **Federal Register.** Listing an area on the National Registry of Natural Landmarks officially recognizes its national significance and often stimulates its owner or manager to use the land so as to retain the values which qualified the resource for landmark designation.

Publication in the **Federal Register** also serves to notify Federal agencies of the presence and location of National Natural Landmarks so that these areas may be taken into consideration when Federal agencies assess the effect of their actions on the environment under the provisions of the National Environmental Policy Act of 1969 (83 Stat. 852, 42 U.S.C. 4321).

Section 8 of the National Park System General Authorities Act of 1970, as amended, (90 Stat. 1940, 16 U.S.C. 1a–5) directs the Secretary of the Interior to prepare an annual report to the Congress which identifies all National Natural Landmarks which exhibit known or anticipated damage or threats to the integrity of their resources. This annual report is prepared by the Heritage Conservation and Recreation Service. The National Parks and Recreation Act of 1978 (92 Stat. 3518, 16 U.S.C. 1a–5) authorizes $1.5 million for monitoring the welfare and integrity of natural and historic landmarks.

Authority for the National Natural Landmarks Program is based on the Historic Sites Act of 1935 (49 Stat. 666, 16 U.S.C. 461) which established a national policy to preserve "objects of national significance."

The primary authors of this document are Mr. Wayne T. Strum and Mr. James F. Orr, Division of State Heritage Programs, Heritage Conservation and Recreation Service, 440 G Street, NW., Washington, D.C. 20243 (202–343–4243).

An environmental assessment of these interim regulations has been prepared by the Heritage Conservation and Recreation Service as required by the National Environmental Policy Act of 1969 (83 Stat. 852, 42 USC 4321 et seq.). Based on the assessment, it has been determined that this rulemaking is not a major Federal action significantly affecting the quality of the human environment, and that an environmental impact statement is not required. The assessment is on file in the Division of State Heritage Programs, Heritage Conservation and Recreation Service, Department of the Interior, 440 G Street, NW., Washington, D.C. 20243.

Note.—The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Title 36 of the Code of Federal Regulations is amended by adding a new Part 1212 as an interim regulation, reading as follows:

PART 1212—NATIONAL NATURAL LANDMARKS PROGRAMS

Sec.

1212.1 Purpose.
1212.2 Definitions.
1212.3 Authority.
1212.4 National natural landmark designation process.
1212.5 Notification.
1212.6 Registration.
1212.7 Monitoring national natural landmarks.
1212.8 Removal of national natural landmark designation.
1212.9 National natural landmark criteria.

Authority: 49 Stat. 666, 16 U.S.C. 461 et. seq.

§ 1212.1 Purpose.

The purpose of these regulations is to set forth the process and criteria used to study, designate, register and monitor National Natural Landmarks. The purpose of the landmarks program is to identify and designate nationally significant examples of the full range of terrestrial communities, aquatic communities, landforms, geological features, and habitats of native plant and animal species that constitute the nation's natural heritage.

§ 1212.2 Definitions.

(a) *National Natural Landmark:* A specific area designated by the Secretary of the Interior which contains a representative example(s) of the nation's natural history, including terrestrial communities, aquatic communities, landforms, geological features, or habitats of native plant and animal species, possessing national significance in illustrating or interpreting the nation's natural heritage.

(b) *National Registry of Natural Landmarks:* The official listing of all National Natural Landmarks which is

published periodically in the Federal Register.

(c) *Registered National Natural Landmark:* A National Natural Landmark, the owner(s) of which has voluntarily agreed to protect, use, and manage the area in a manner which prevents the destruction or deterioration of the values upon which landmark designation is based. This agreement is non-binding and may be terminated by either the owner(s) of the landmark or the Director, Heritage Conservation and Recreation Service.

(d) *Secretary:* The Secretary of the Interior or the designee authorized to carry out the Secretary's responsibilities.

(e) *Owner:* The individual or organization owning private land or the public agency responsible for administering public land.

§ 1212.3 Authority.

The policies and procedures contained herein are based on the authority of the Secretary of the Interior under the Historic Sites Act of 1935 (49 Stat. 666, 16 U.S.C. 461 et seq.), exercised through the Heritage Conservation and Recreation Service.

§ 1212.4 National Natural Landmark designation process.

(a) *Natural Region Studies.* The Heritage Conservation and Recreation Service (HCRS) conducts studies of ecological and geological features in each natural region of the United States, Puerto Rico, the Virgin Islands, and the Pacific Trust Territories to provide a scientific basis for identifying potential National Natural Landmarks. The HCRS Division of Natural Landmarks is responsible for monitoring these studies which are usually done under contract with scientists. A study of each region produces a classification and description of ecological and geological features and an annotated list of areas that best illustrate those features. In addition to those areas identified in the natural region studies, Landmark recommendations may also be made by any other interested party. These recommendations will then be considered in the natural region study and/or by the Division of Natural Landmarks. After reviewing the recommendations from a completed natural region study and/or other interested parties, the Division of Natural Landmarks determines those areas which should be considered as having potential for designation as National Natural Landmarks.

(b) *Evaluation.* Areas identified as potential National Natural Landmarks are evaluated to assess their natural values against the criteria for national significance in § 1212.9. This evaluation is carried out by field scientists in conjunction with the Division of Natural Landmarks and the appropriate Regional Office of the Heritage Conservation and Recreation Service. The result of this evaluation is a documented list of those areas which appear to meet the criteria and which may qualify as National Natural Landmarks. The Division of Natural Landmarks reviews the recommendations from this evaluation and prepares final documentation for those areas judged to possess national significance. These recommendations are then forwarded to the Director, Heritage Conservation and Recreation Service. Those areas which do not appear to meet the criteria for national significance are similarly placed on a documented list to be reviewed by the Division of Natural Landmarks prior to being placed on a list which will not receive further review at that time.

(c) *Nomination and designation.* Areas recommended to the Director, Heritage Conservation and Recreation Service, are reviewed and formally nominated to the Secretary of the Interior, through the Assistant Secretary, Fish and Wildlife and Parks, for approval and designation as National Natural Landmarks under the criteria in § 1212.9. Those areas approved by the Secretary as National Natural Landmarks are listed on the National Registry of Natural Landmarks.

§ 1212.5 Notification.

(a) *First notification.* (1) When an area which has been identified as a potential National Natural Landmark is being evaluated by scientists as described in § 1212.4(b) above, the Heritage Conservation and Recreation Service will notify the owner(s) in writing, except as specified in § 1212.5(a)(2). Such notice will advise the owner(s) that the area is under consideration for National Natural Landmark designation. Owner notice will include information on the National Natural Landmarks Program, available information describing the area and its significance, and a request for permission to conduct an on-site evaluation.

(2) When an area which has been identified as a potential National Natural Landmark has more than 50 owners and is being evaluated by scientists as described in § 1212.4(b) above, the Heritage Conservation and Recreation Service will provide general notice to the owners that the area is under consideration for National Natural Landmark designation. This general notice will include information on the National Natural Landmarks Program, available information describing the area and its significance, notification that HCRS representatives may conduct an on-site evaluation, and will solicit comments and recommendations. This notice must be published in one or more local newspapers of general circulation in the area in which the potential National Natural Landmark is located.

(b) *Second notification.* (1) When an area appears to qualify for designation as a National Natural Landmark, the Heritage Conservation and Recreation Service will again notify the owner(s) in writing except as specified in § 1212.5(b)(2). In addition, the Heritage Conservation and Recreation Service will notify: (i) The executive of the local governmental jurisdiction in which the potential landmark is located, (ii) the Governor of the State, and (iii) the members of Congress who represent the District and the State in which the potential landmark is located. Such notices will advise the recipients of the proposed action, will reference these regulations, and will notify the owner(s) of the procedures to be followed by the Heritage Conservation and Recreation Service. Notice of this proposed action will also appear in the Federal Register. Those individuals notified will have 30 days from the day the notice is mailed within which to comment before a decision is made to nominate the area to the Secretary. Such considerations as past, current, and anticipated land uses, potential threats to the area's integrity, and the owner's attitude toward designation may be addressed. All comments will be considered in the review and designation of potential National Natural Landmarks.

(2) When an area appears to qualify for designation as a National Natural Landmark and has more than 50 owners, the Heritage Conservation and Recreation Service will again provide general notice to the owners of the area. Notification to all other parties will be undertaken as outlined in § 1212.5(b)(1).

(3) When an area is determined not to meet the criteria for national significance as described in § 1212.9, the Heritage Conservation and Recreation Service will notify the owner(s) as outlined in § 1212.5(a) above that no further action will be taken with respect to landmark designation.

(c) *Third notification.* When an area is designated a National Natural Landmark by the Secretary, notification will be sent to: (1) The owner(s) as outlined in § 1212.5(b) above, (2) the executive of the local governmental jurisdiction in which the landmark is

located, (3) the Governor of the State, (4) the members of Congress who represent the District and State in which the landmark is located, and (5) other interested authorities, organizations, and individuals as deemed appropriate by the Heritage Conservation and Recreation Service. Notice of new designations will be published periodically in the Federal Register.

§ 1212.6 Registration.

(a) Following the designation of an area by the Secretary as a National Natural Landmark, the owner(s) is invited to enter into an agreement with the Heritage Conservation and Recreation Service indicating a willingness to adopt management practices which protect the landmark's nationally significant values. When the agreement is signed, the area becomes a registered National Natural Landmark. The owner(s) gives up none of the rights and privileges of ownership or use of the area, nor does the Department of the Interior gain any property interest in land so designated. The owner(s) may request both a certificate signed by the Secretary of the Interior and the Director of the Heritage Conservation and Recreation Service, and a bronze plaque. The Heritage Conservation and Recreation Service provides the certificate and plaque without cost to the owner(s) through its appropriate Regional Office. Upon request, the Regional Office will help arrange and participate in a presentation ceremony.

(b) If the agreement is not signed, the area retains its status as a National Natural Landmark, but the owner(s) is awarded neither the certificate nor the plaque.

(c) There is no time limit for signing the agreement and accepting the certificate and plaque. The owner may choose to do so at any time following the designation of the area as a National Natural Landmark.

(d) When the ownership of a registered National Natural Landmark changes, a new agreement is required to maintain registration.

§ 1212.7 Monitoring National Natural Landmarks.

(a) The Heritage Conservation and Recreation Service, through its Regional Offices, maintains a continuing relationship with the owners of National Natural Landmarks in the form of periodic visits to the areas to determine whether the landmarks have retained those qualities which make them nationally significant, to advise owners who request help on appropriate conservation practices, and to update administrative records on the areas. Reports for all periodic visits are sent to and reviewed by the Division of Natural Landmarks. This information provides the basis for an annual report to the Congress by the Secretary on National Natural Landmarks which exhibit known or anticipated damage or threats to the integrity of their resources as mandated by Section 6 of the National Park System General Authorities Act of 1970, as amended, (90 Stat. 1940, 16 U.S.C. 1a–5).

(b) Whenever the Secretary of the Interior determines that a National Natural Landmark may be irreparably lost or destroyed in whole or in part by any surface mining activity, including exploration for or removal or production of minerals or materials, the Secretary shall notify the person conducting such activity and prepare a report thereon. The report will include the basis for the Secretary's finding that such activity may cause irreparable loss or destruction of a National Natural Landmark. It will be submitted to the Advisory Council on Historic Preservation, along with a request for advice from the Council as to alternative measures that may be taken by the United States to mitigate or abate such activity. Authority for this action is mandated by Section 9 of the Mining in National Parks Act of 1976 (90 Stat. 1342, 16 U.S.C. 1908).

§ 1212.8 Removal of National Natural Landmark designation.

The National Natural Landmark designation will be removed from an area when the qualities which caused it originally to be nominated have been lost or destroyed; upon proof that an error in professional judgment has been made; or for failure to follow the procedures set forth herein. Information concerning the loss of natural qualities, error in judgment, or procedural failure should be submitted to the Director, Heritage Conservation and Recreation Service, Washington, D.C. 20243. When the Heritage Conservation and Recreation Service obtains information from reliable sources or from its own studies or on-site visits that a National Natural Landmark appears to no longer merit this designation, the following process will be used:

(a) *Evaluation:* Information outlining the apparent loss of nationally significant values will be evaluated by field scientists in conjunction with the division of Natural Landmarks and the appropriate regional office of the Heritage Conservation and Recreation Service. Based on this evaluation, the Division of Natural Landmarks will determine whether the landmark has lost the values which made it nationally significant. If it has, a recommendation for removal from the National Registry of Natural Landmarks will be forwarded to the Director, Heritage Conservation and Recreation Service.

(b) *Removal from the Registry.* The recommendation for removal of areas from the National Registry of Natural Landmarks will be reviewed by the Director, Heritage Conservation and Recreation Service. The Director's recommendation will then be submitted to the Secretary, through the Assistant Secretary, Fish and Wildlife and Parks, for final decision.

(c) *Notification of Removal from the Registry.* (1) When it has been determined by the Division of Natural Landmarks that an area no longer appears to merit landmark designation, the Heritage Conservation and Recreation Service will notify the owner(s) and the other recipients noted in § 1212.5(b). Notice of the proposed removal will also appear in the Federal Register. The individuals notified will have an opportunity to comment within 30 days from the day the notice is mailed before a recommendation for removal is submitted to the Secretary. All comments received will be considered in the review and decision to remove the National Natural Landmark designation.

(2) When an area is removed from the National Registry of Natural Landmarks by the Secretary, notification is sent to: (i) The owner(s), (ii) the executive of the local governmental jurisdiction in which the landmark is located, (iii) the Governor of the State, (iv) the members of Congress who represent the District and State in which the landmark is located, and (v) other interested authorities, organizations, and individuals as deemed appropriate by the Heritage Conservation and Recreation Service, as outlined in § 1212.5(b). Notice of such removals will be published periodically in the Federal Register.

§ 1212.9 National natural landmark criteria.

National Natural Landmark designation recognizes areas which best represent the ecological and geological character of the United States, including, for example, terrestrial aquatic communities, landforms, geological features, and habitats of native plant and animal species. The identification, evaluation, and designation of National Natural Landmarks is based on the assumption that the characteristics of each of the different natural regions of the United States are unique. Therefore, if an area, using the criteria below, is determined to be significant to a

particular natural region, it is considered to possess national significance.

(a) *Primary criterion.* The first level of consideration in a determination of national significance is that the area being considered must contain one or more high quality examples of the ecological and/or geological features identified in the classification of the natural region in which it exists.

(b) *Secondary criteria.* When it becomes necessary to compare areas that appear to be essentially similar in light of the primary criterion and to determine which of the examples to list on the National Registry of Natural Landmarks, the following criteria, not necessarily in this order, will be used to identify those areas which appear to qualify as National Natural Landmarks.

(1) *Inherent diversity.* The area contains high-quality examples of more than one ecological and/or geological feature in the natural region classification.

(2) *Condition.* The area has been free from disturbance and human intervention for a longer period of time, and is therefore more natural, more stable, and more reflective of the natural environment.

(3) *Viability.* The area is capable of retaining and perpetuating its inherent natural qualities over time; it exists in a state which encourages its persistence and survival.

(4) *Education and research.* The area has exceptional value to scientific research, education, and/or public awareness of our natural heritage.

(5) *Geographic location.* (i) The area contains ecological features that are disjunct and/or relict, or geologic features that are anomalous or atypical or normal distribution patterns.

(ii) The area reflects changes in an ecological or geological feature that has a broad geographic distribution.

(6) *Critical features or habitat.* (i) The area contains a rare and/or fragile geological feature, or an unusually high concentration of rare and/or endangered species.

(ii) The area is essential for breeding, wintering, or migration of animal species.

These criteria provide the basis for the exercise of professional judgment in the identification and designation of National Natural Landmarks.

Dated: November 13, 1979.

Chris Therral Delaporte,

Director, Heritage Conservation and Recreation Service.

[FR Doc. 79-35666 Filed 11-19-79; 8:45 am]

BILLING CODE 4310-03-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 116 and 117

[FRL 1338-7]

Removal of Calcium Oxide and Calcium Hydroxide From Hazardous Substance List

Correction

In FR Doc. 79-34881 appearing at page 65399 in the issue for Tuesday, November 13, 1979, on page 65400, in the third column, in the second paragraph, under the heading § 116.4A [Amended], in the second line, "hydroxide" should read "oxide".

BILLING CODE 1501-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA 5736]

National Flood Insurance Program; List of Communities With Special Hazard Areas

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: This rule identifies communities with areas of special flood, mudslide, or erosion hazards as authorized by the National Flood Insurance Program. The identification of such areas is to provide guidance to communities on the reduction of property losses by the adoption of appropriate flood plain management or other measures to minimize damage. It will enable communities to guide future construction, where practicable, away from locations which are threatened by flood or other hazards.

EFFECTIVE DATES: The date listed in the eighth column of the table or 30 days after the date of this **Federal Register** publication, (December 20, 1979), whichever is later.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program (202) 426-1460 or Toll Free Line 800-424-8872, Room 5150, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Flood Disaster Protection Act of 1973 (Pub. L. 93-234) requires the purchase of flood insurance on and after March 2, 1974, as a condition of receiving any form of Federal or federally related financial assistance for acquisition or construction purposes in an identified flood plain area having special flood hazards that is located within any community participating in the National Flood Insurance Program.

One year after the identification of the community as flood prone, the requirement applies to all identified special flood hazard areas within the United States, so that, after that date, no such financial assistance can legally be provided for acquisition and construction in these areas unless the community has entered the program. The prohibition, however, does not apply in respect to conventional mortgage loans by federally regulated, insured, supervised, or approved lending institutions.

This 30 day period does not supersede the statutory requirement that a community, whether or not participating in the program, be given the opportunity for a period of six months to establish that it is not seriously flood prone or that such flood hazards as may have existed have been corrected by floodworks or other flood control methods. The six months period shall be considered to begin 30 days after the date of publication in the **Federal Register**, (December 20, 1979), or the effective date of the Flood Hazard Boundary Map, whichever is later. Similarly, the one year period a community has to enter the program under section 201(d) of the Flood Disaster Protection Act of 1973 shall be considered to begin 30 days after publication in the **Federal Register**, (December 20, 1979), or the effective date of the Flood Hazard Boundary Map, whichever is later.

This identification is made in accordance with Part 64 or Title 44 of the Code of Federal Regulations as authorized by the National Flood Insurance Program (42 U.S.C. 4001-4128).

Section 65.3 as amended by adding in alphabetical sequence a new entry to the table:

§ 65.3 List of communities with special hazard areas (FHBM's in effect).

State, county, community name, and number of panels	Community number and suffix	Program and change code	Inland or coastal	Hazard F/M/E	Identification date(s)	Effective date of this map action	Local map repository
Illinois, Woodford, village of Roanoke, 01	170727B	E-8, 11, 12, 14	I	F	Mar. 1, 1974, Feb. 13, 1976.	Nov. 2, 1979	Elmer J. Wehrli, Mayor, Husseman Street, Roanoke, IL 61561, Phone: (309) 923-3661.
Illinois, Sangamon, city of Springfield, 0001C-0007C.	170604	E-8, 11, 12, 14	I	F	June 7, 1974, Oct. 3, 1975, Jan. 9, 1976.	Nov. 2, 1979	William Talford, Mayor, 7th and Monroe Street, Springfield, IL 62701, Phone: (217) 789-2260.
Indiana, Daviess, town of Elnora, 0001B	180036	E-11, 12, 14	I	F	Dec. 7, 1973, June 18, 1976.	Nov. 2, 1979	Harvey Manning, President, Town Board, Town Hall, P.O. Box 336, Elnora, IN 47529, Phone: (812) 692-5415.
Indiana, Wayne, town of Milton, 01	180285B	E-8, 11, 12, 14	I	F	Oct. 8, 1976	Nov. 2, 1979	Arnold Boyd, President, Town Board, Town Hall, Milton, IN 47357, Phone: (317) 478-3818.
Ohio, Perry, village of Corning, 01	390440B	E-11, 12, 14	I	F	May 10, 1974, June 11, 1976.	Nov. 2, 1979	Leonard Baird, Mayor, Village Hall, Corning, OH 43730, Phone: (614) 347-4530.
Wisconsin, Barron, village of Almena, 01	550009B	E-11, 12, 14	I	F	Sept. 6, 1974, May 14, 1976.	Nov. 2, 1979	Henry Becker, Village President, Portland Avenue, Almena, WI 54805, Phone: (715) 357-3286.
Alabama, Shelby, town of Wilton, 0001	010405A	N-5	I	F	Nov. 2, 1979	Nov. 2, 1979	James M. Henson, Mayor, Town of Wilton, P.O. Box 148, Wilton, AL 35187, (205) 665-2021.
Alabama, Shelby, town of Calera, 0001	010373A	N-5	I	F	Nov. 2, 1979	Nov. 2, 1979	George W. Roy, Mayor, Town of Calera, P.O. Box 177, Calera, AL 35040, (205) 668-2314.
New York, Rockland, town of Haverstraw, 0002, 0003.	360681B	E-11, 12	I	F	Mar. 29, 1974, Sept. 26, 1975.	Nov. 2, 1979	Fred Mittermeier, Town Engineer, 41 North Main Street, Haverstraw, NY 10927, (914) 425-5000.
Montana, unincorporated area, Wheatland County, 0011A; 0012A.	300172A	E-5	I	F	Nov. 6, 1979	Nov. 6, 1979	Mr. John R. Nelson, Chairman, Wheatland County, Board of County Commissioners, Harlowton, MT 59036, (406) 632-5621.
Illinois, La Salle, city of Peru, 0001B	170406	E-8, 11, 12, 14	I	F	Apr. 5, 1974, Oct. 31, 1975.	Nov. 9, 1979	Donald L. Baker, Mayor, P.O. Box 299, Peru, IL 61354, Phone: (815) 223-0061.
Maryland, Anne Arundel, Anne Arundel County, 0001B-0021B.	240008	E-11	I	F	Nov. 15, 1974, Aug. 4, 1978.	Nov. 9, 1979	Robert Pascal, County Executive, P.O. Box 1831, Annapolis, MD 21404, Phone: (301) 224-1477.
Michigan, Washtenaw, village of Chelsea, 0001A.	260599	N-8, 11, 12, 14	I	F	Oct. 3, 1975	Nov. 9, 1979	Frederick L. Barkley, Projects Director, 104 East Middle Street, Chelsea, MI 48118, Phone: (313) 475-1771.
Ohio, Van Wert and Allen, city of Delphos, 0001B.	390005	E-8, 11, 12, 14	I	F	May 17, 1974, June 11, 1976.	Nov. 9, 1979	Ralph E. Wagner, Mayor, 125 East Second Street, Delphos, OH 45833, Phone: (419) 692-0791.
Georgia, Burke, town of Girard, 01	130023B	E-12	I	F	Sept. 6, 1974, Jan. 23, 1976.	Nov. 9, 1979	Eloise Jenkins, Mayor, Town of Girard, Girard, GA 30426.
North Carolina, Wayne, Wayne County, 01-08	370254B	E-11, 12	I	F	Dec. 27, 1974, Aug. 4, 1978.	Nov. 9, 1979	Mr. Reed Tunstall, Wayne Co. Planning Dept., P.O. Box 227, Goldsboro, NC 27530.
California, unincorporated area, San Benito County, 0001B-0005B; 0007B-0008B; 0010B-0013B; 0015B-0021B.	060267B	N-5, 15	I	F	Nov. 13, 1979	Nov. 13, 1979	Mr. Phillip A. Fitzbuck, County Planner, San Benito County, Office of County Planner, 3220 Southside Road, Hollister, CA 95023, (408) 637-5313.
North Dakota, Barnes, city of Valley City, 0001C-0004C.	380002C	E-8, 11, 12	I	F	Feb. 8, 1974, Dec. 13, 1974, Jan. 31, 1978.	Nov. 13, 1979	Mr. Robert K. Barrow, City Engineer, P.O. Box 390, Valley City, ND 58071, (701) 845-0380.
Texas, Collin, town of Weston, 0001B	481324B	N-12	I	F	May 23, 1978	Nov. 13, 1979	Honorable Thomas Kissinger, Mayor, P.O. Box 57, Weston, TX 75097, (214) 542-2636.
Illinois, Knox and Fulton, village of London Mills, 01.	170763B	E-8, 11, 12, 14	I	F	Oct. 18, 1974, Feb. 20, 1976.	Nov. 16, 1979	John Ulm, Mayor, Box 254, London Mills, IL 61544, Phone: (309) 486-3593.
Ohio, Fulton, village of Swanton, 0001A	390632	N-8, 11, 12, 14	I	F	July 25, 1975	Nov. 16, 1979	Lewis Carson, Mayor, 219 Chestnut Street, Swanton, OH 43558, Phone: (419) 826-2816.
Pennsylvania, Pike, township of Blooming Grove, 0001A-0005A.	421962	E-11, 12, 14	I	F	Nov. 8, 1974	Nov. 16, 1979	Doy N. Grim, Jr., Chairman, Twp. Suprs., Blooming Grove, Hawley, PA 18428, Phone: (717) 775-7455.
California, Santa Clara, city of San Jose, 0001C-0016C.	060349C	E-8, 11, 12	I	F	Jan. 24, 1975, Apr. 9, 1976, Apr. 4, 1978.	Nov. 20, 1979	Mr. E. R. Toschi, Principal Civil Engineer, Department of Public Works, 801 North First Street, San Jose, CA 95110, (408) 277-4681.
Texas, Collin, Town of Lavon, 0001B	481313B	N-11, 12	I	F	May 23, 1978	Nov. 20, 1979	Honorable W. H. Morrow, Mayor, Town of Lavon, Town Hall, Lavon, TX 75066, (214) 853-3601.
Alabama, Dale and Houston Counties, city of Dothan, 0001-0009.	010104C	E-8, 11, 12	I	F	Dec. 28, 1973, Jan. 9, 1976.	Nov. 23, 1979	Mr. Gary Martin, City Engineer, The City of Dothan, P.O. Box 2128, Dothan, Al 36301, (200) 794-0361.

State, county, community name, and number of panels	Community number and suffix	Program and change code	Inland or coastal	Hazard F/M/E	Identification date(s)	Effective date of this map action	Local map repository
Tennessee, Maury County, city of Mount Pleasant, 0001.	470125B	E-8, 11	I	F	Feb. 15, 1974, Sept. 17, 1976.	Nov. 23, 1979	William H. Boyd, Mayor, City of Mount Pleasant, P.O. Box 426, Mount Pleasant, TN, (615) 379-7717.
Pennsylvania, Somerset, Township of Jenner, 0001A-0005A.	422051	E-11, 12, 14	I	F	Jan. 24, 1975	Nov 23, 1979	Kermit Rhoads, Chairman, R.D. No. 2, Boswell, PA 15531, Phone: (814) 629-5754.
Missouri, unicorporated area, New Madrid County, 0001A-0010A.	290849A	E-5	I	F	Nov. 27, 1979	Nov. 27, 1979	Honorable Raymond L. Ashley, Presiding Judge, Office of the Presiding Judge, New Madrid County Courthouse, New Madrid Mo 63869, (314) 748-2524.
Alabama, Sumter, town of Geiger, 0001	010386A	E-5	I	F	Nov. 30, 1979	Nov. 30, 1979	Louis Watt, Mayor, Town of Geiger, Rt. 1, Box G39A, Geiger, Al 35459.
Florida, Citrus, City of Crystal River, 01, 02	120340A	E-12	I	F	Mar. 26, 1976	Nov. 30, 1979	Mrs. Rice, Secretary, City of Crystal River, 123 North West Highway 19, Crystal River, Fl 32629.
New York, Erie, village of Alden, 0001	360224B	E-11	I	F	May 17, 1974, June 18, 1976.	Nov. 30, 1979	Ms. Joan Weider, Clerk, Village of Alden, 13336 Broadway, Alden, NY 14004.
Tennessee, Cannon, town of Auburntown, 01.	470020B	E-8	I	F	Aug. 2, 1974, Apr. 23, 1976.	Nov. 30, 1979	Town of Auburntown, Town Administrator, Auburntown, TN 37016.
Ohio, Fulton, Fulton County,[1] 0003B and 0006B only.	390182	N-11, 12, 14	I	F	Jan. 20, 1978	Nov. 30, 1979	David Hurst, Chairman, County Commissioners, Courthouse, Wauseon, OH 43567, Phone: (419) 335-5921.
Ohio, Knox, Knox County,[1] 0003B, 0005B and 0006B only.	390306	N-11, 12, 14	I	F	Jan. 31, 1975, Nov. 11, 1977.	Nov. 30, 1979	Richard Mivis, President, Board of County Commissioners, 110 East High Street, Mount Vernon, OH 43050, Phone: (614) 397-2727.
Pennsylvania, Somerset, township of Larimer, 0001A-0003A.	422515	N-11, 12, 14	I	F	Jan. 10, 1975	Nov. 30,1979	Robert Cogan, R.D. No. 4, Meyersdale, PA 15552, Phone: (814) 634-8901.
Pennsylvania, Pike, township of Shohola, 0001A-0003A.	421969	E-11, 12, 14	I	F	Feb. 14, 1975	Nov. 30, 1979	George J. Fluhr, Chairman, Shohola, PA 18458, Phone: (717) 559-7444.
Pennsylvania, Bedford, township of Union, 0001A-0002A.	421352	N-11, 12, 14	I	F	Jan. 3, 1975	Nov. 30, 1979	N. Merle Crist, Chairman, R.D. No. 1, Imler, PA 16655, Phone: (814) 276-3704.
Wisconsin, Grant, city of Boscobel, 01	550148B	N-8, 11, 12, 14	I	F	Dec. 17, 1973, May 14, 1976.	Nov. 30, 1979	Leo E. Johnson, Mayor, 1106 East Avenue, Boscobel, WI 53805, Phone: (608) 375-5001.

[1] Unincorporated area.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: November 2, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-35506 Filed 11-19-79; 8:45 am]

BILLING CODE 6718-03-M

Proposed Rules

Federal Register
Vol. 44, No. 225
Tuesday, November 20, 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.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 225

Summer Food Service Program

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Department is issuing additional proposed regulations for the Summer Food Service Program for Children in order to implement the provisions of Pub. L. 96–108, enacted on November 9, 1979, and to make other changes directed at reducing mismanagement, waste, and abuse in the Program. As required by the statute, these regulations redefine what types of institutions are eligible to sponsor the Program. This change will have the effect of limiting the eligibility of some private nonprofit institutions which sponsor large programs and which purchase meals from food service management companies. These proposed regulations also emphasize the responsibility of State agencies to attempt to locate high priority sponsors to administer the Program for sites in areas where poor economic conditions exist. It is intended that these changes will reduce mismanagement, waste, and abuse in the Program by more thoroughly screening applicant sponsors of the type described above, and by intensifying the effort to locate the most capable sponsors to administer sites.

DATE: Comments must be received by December 11, 1979 to be assured of consideration in final rulemaking.

ADDRESS: Written comments should be sent to Mr. Jordan Benderly, Director, Child Care and Summer Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C., 20250. Copies of all written comments received will be available for inspection during normal business hours in Room 620, 500 12th Street, S.W., Washington, D.C., 20250.

FOR FURTHER INFORMATION CONTACT: Mr. Jordan Benderly or Ms. Beverly Walstrom at the above address or by telephone at (202) 447–6509.

SUPPLEMENTARY INFORMATION: Authorization for the Summer Food Service Program for Children is given in Section 13 of the National School Lunch Act. Pub. L. 95–166, enacted November 10, 1977, contains the comprehensive Program authorization which is currently in effect and which expires after September 30, 1980. Enactment of Public Law 96–108, which is the appropriations act for the Department for fiscal year 1980, modifies the provisions for institution eligibility included in the authorizing statute. This proposed rule amends current Program regulations (44 FR 8) by redefining which institutions are eligible to sponsor the Program, as mandated by Pub. L. 96–108, and by making related changes.

Before the enactment of Pub. L. 96–108, the Department published proposed regulations (44 FR 211) in accordance with the requirement of Pub. L. 95–166. The proposed rule which follows will be combined with the earlier proposal into a final rule for the summer of 1980, which will be published prior to January 1, 1980.

1. Eligibility

Six categories of sponsors are identified as eligible to administer summer programs. They include: (1) public sponsors, (2) private nonprofit sponsors which prepare their own meals or which obtain meals from a public facility, (3) private nonprofit schools (including colleges and universities), (4) private nonprofit migrant farmworker organizations which serve children from migrant families, (5) private nonprofit sponsors which purchase meals from a food service management company and which serve not more than a total of 500 children at not more than three sites, and (6) in areas where no sponsors of types 1 through 5 are available to operate the Program, private nonprofit sponsors which purchase meals from food service management companies, and which are determined to have a consistent record of reliable and honest management and administration of publicly funded community food service programs. The provision established institutions of types 1 through 5 as the first priority for sponsorship of the Program for any given area or food service site. Type 6 institutions are eligible to sponsor the Program only where no sponsores of the other types are available to sponsor sites serving needy children. Program experience, audits and investigations indicate that mismanagement and waste are more common in large, commercially vended programs administered by private sponsors. The Department anticipates that Program abuses can be reduced by more careful approval of sponsors and sites, as authorized by the proposed rule.

The statute specifies that type 6 institutions must be "determined by the Secretary of Agriculture to have a record of reliable and honest community service in feeding programs." Therefore, additional critieria to determine the eligibility of such institutions have been established. Type 6 applicant sponsors will be required to submit, as part of the application process, sufficient documentation to permit State agencies to determine if the applicant has properly administered publicly funded community food service programs and has no record of operating a seriously deficient program. Type 6 applicants which sponsored the Program in the prior fiscal year are exempt from the requirement to submit this documentation, as the State agencies should have sufficient records on file to evaluate such applicant institutions.

The Department believes that proper administration of summer programs requires a high level of managerial skill and experience. Therefore, the proposed rule requires that each type 6 applicant's history include administration of community food service programs which are publicly funded. Such a record will more meaningfully evidence the applicant's capability for administering public funds under the Program. To provide regulatory guidance to State agencies, the proposed rule defines community food service programs as programs which provide meals on a regular schedule, and which have the stated objective of providing nutritionally balanced meals to participants.

2. State Agency Responsibilities

Implementation of the eligibility provisions described above necessitates additional State agency responsibilities. Administering agencies must target potential sponsors of types 1 through 5

for their outreach efforts and give such potential sponsors first priority in application approval. State agencies are also required to evaluate the documentation submitted by type 6 applicants to determine whether they have a consistent record of reliable and honest administration of publicly funded community food service programs.

In the proposed rule each State is require to outline in its State plan for management and administration its critieria for evaluating such documentation. States must also describe their procedures for locating high priority sponsors for food service sites. The State plan must, in addition, address the State agency's plan for controlling waste and mismanagement for all sponsors, and any special procedures for controlling such problems in the operations of type 6 sponsors. A corrective action plan for problems and deficiencies experienced in the prior year's program is also required in the State plan.

Comment Period

The President directed each Executive Agency to adopt procedures to improve the public comment and rulemaking process (Executive Order 12044, issue March 24, 1978, (43 FR 12661)). Although the Executive Order establishes a 60 day comment period for significant rulemaking, it does allow for shorter comment periods under certain circumstances. A shortened comment period for this proposed rule will allow timely publication of final regulations, thus giving administering agencies at all levels an adequate amount of time to plan and prepare for the 1980 Summer Program. Because the Program's authorizing legislation mandates that final regulations be published no later than January 1 of each year and Pub. L. 96–108 was not enacted until November 9, 1979, Robert M. Greenstein, Administrator of the Food and Nutrition Service, has decided to allow 20 days, rather than 60 days, for public comment.

Accordingly, the Department is issuing proposed amendments to Part 225 as follows:

1. In § 225.4, the first sentence in paragraph (h) is amended and a new paragraph (k) is added, to read as follows:

§ 225.4 Procedures for approval of sponsors and sites

* * * * *

(h) The State agency shall use the following order of priority in approving sponsors eligible under § 225.9(a)(7) (i) through (v) to operate sites which propose to serve the same area or the same enrolled children.* * *

* * * * *

(k) The State agency shall not approve the application of any applicant sponsor which seeks eligibility under § 225.9(a)(7)(vi) unless the applicant fully documents that it has a consistent record of reliable and honest management and administration of publicly funded community food service programs. For the purpose of determining eligibility under § 225.9(a)(7)(vi), community food service program means a program that provides meals on a regular schedule, and which has the stated objective of providing nutritionally balanced meals to participants. The State agency shall approve such applicant sponsors only if sponsors identified in § 225.9(a)(7) (i) through (v) are not available to administer the Program in the same geographic area or if a significant number of needy children will not otherwise have reasonable access to the Program. Upon receiving an application from a potential sponsor seeking eligibilty under § 225.9(a)(7)(vi), the State agency shall make every reasonable effort to locate a sponsor eligible under § 225.9(a)(7) (i) through (v) to serve sites in that same area. The State agency may also assist applicants seeking eligibility under § 225.9(a)(7)(vi) in making changes in their proposed program that would make such applicants eligible under one of the other categories (§ 225.9(a)(7) (i) through (v)).

2. In § 225.5, paragraph (c) is amended by adding a new sentence and a new paragraph (aa) is added, to read as follows:

§ 225.5 Responsibilities of State agencies.

* * * * *

(c) * * * Outreach efforts shall be directed toward potential sponsors which would be eligible under § 225.9(a)(7) (i) through (v). State agencies shall make every reasonable effort to locate high priority sponsors for sites in areas where poor economic conditions exist.

* * * * *

(aa) *Management record.* The State agency shall review information included in applications submitted by potential sponsors seeking eligibility under § 225.9(a)(7)(vi) to determine whether such applicants have adequately documented a consistent record of reliable and honest management and administration of publicly funded community food service programs. State agencies shall not require such documentation of applicants which have sponsored the Program in the prior fiscal year.

* * * * *

3. In § 225.6, subparagraph (a)(1) is amended by adding two new sentences and subparagraphs (a)(10), (12), and (19) are amended, to read as follows:

§ 225.6 Program management and administration plan.

(a) * * *

(1) * * * The outreach activities identified shall be directed primarily at potential sponsors eligible under Section 225.9(a)(7)(i) through (v). States shall describe their procedures for locating high priority sponsors for food service sites;

* * * * *

(10) The State's plan for monitoring and inspecting sponsors, sites, and food service management companies and for ensuring that such companies do not enter into contracts for more meals than they can provide effectively and efficiently. The plan shall also explain the State's procedures for controlling mismanagement and waste for all sponsors, as well as additional procedures for sponsors approved under §225.9(a)(7)(vi), and for sites administered by such sponsors;

* * * * *

(12) The State's plan and schedule for submission and approval of sponsor applications. The plan shall include the State's criteria for evaluating information submitted by applicant sponsors seeking eligibility under § 225.9(a)(7)(vi) in order to ascertain whether such applicants have a consistent history of reliable and honest manangement and administration of community food service programs. Any additional procedures for such sponsors and for sites administered by such sponsors shall also be included.

* * * * *

(19) An explanation of significant deviations from last year's actual Program operations and administration from that proposed in the plan for last year. This explanation shall include the State's corrective action plan for resolving any problems or deficiencies which occurred during the prior fiscal year.

4. In § 225.9, amend existing subparagraphs (a)(1) and (7) to read as follows:

§ 225.9 Requirements for participation.

(a) * * *

(1) Demonstrates financial and administrative capability for Program operations and accepts final financial and administrative responsibility for total Program operations at all sites at

which it proposes to conduct a food service. Applicants under (a)(7)(vi) of this paragraph shall submit sufficient documentation with the application to demonstrate that they have been consistently reliable and honest in the management and administration of publicly funded community food service programs. The following types of documentation shall be submitted for food service programs administered during the prior three years, and may be submitted for any program administered prior to that time:

(i) A description of all food service programs which the applicant has managed or administered, including lists of names of corporate officers, addresses of food service sites, and sources of funding;

(ii) Independent audit reports stemming from any audits which may have been conducted on the applicant's food service programs;

(iii) An assurance that the applicant has not been terminated or determined to have been seriously deficient in its operation of community food service programs; and

(iv) Any other relevant information which is available to the applicant concerning its record in managment and administration of food service programs.

An applicant sponsor shall not be required to submit such documentation if during the prior fiscal year it sponsored the Program.

* * * * *

(7) Applicants eligible to sponsor the Program include:

(i) Public sponsors;

(ii) Private nonprofit sponsors, including residential summer camps, which prepare their own meals or obtain meals from a public facility, such as a school district, public hospital, or State university;

(iii) Private nonprofit schools, including colleges and universities;

(iv) Private nonprofit migrant farmworker organizations, including those that purchase meals from a food service management company that develop programs for children of migrant families.

(v) Private nonprofit sponsors which serve not more than a total of 500 children daily at not more than three sites and which purchase meals from a food service management company; and

(vi) In areas where no sponsors described in paragraph (a)(7) (i) through (v) of this section are available to operate the Program, or where a significant number of needy children will not otherwise have access to the Program, private nonprofit service institutions which purchase meals from a food service management company, and which are determined to have a consistent record of reliable and honest management and administration of publicly funded community food service programs.

* * * * *

Note.—This proposal has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Draft Impact Analysis has been prepared and is available from Jordan Benderly.

Dated: November 16, 1979.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 79-35870 Filed 11-19-79; 8:45 am]

BILLING CODE 3410-30-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34-16340; File No. S7-807]

Record Production Obligations of National Securities Exchanges and National Securities Associations

AGENCY: Securities and Exchange Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission proposes to amend Rule 17a-1 (17 CFR 240.17a-1) under the Securities Exchange Act of 1934 (the "Act") to conform the text of that rule to Section 17(a) of the Act, as amended by the Securities Acts Amendments of 1975 (the "1975 Amendments"). Rule 17a-1 implements the Commission's recordkeeping and record production authority pursuant to Section 17(a) for national securities exchanges ("exchanges") and national securities associations ("associations").

DATES: Comments should be submitted on or before December 31, 1979.

ADDRESSES: Persons wishing to submit written views should file three copies thereof with George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Room 892, 500 North Capitol Street, Washington, D.C. 20549. All submissions should refer to File No. S7-807 and will be available for public inspection at the Commission's Public Reference Room, Room 6101, 110 L Street, N.W., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: William S. Muller, Division of Market Regulation, Securities and Exchange Commission, Room 351, 500 North Capitol Street, Washington, D.C. 20549, (202) 272-2415.

SUPPLEMENTARY INFORMATION: Prior to passage of the 1975 Amendments,[1] Section 17(a) of the Act governed the record keeping and reporting obligations of exchanges and associations.[2] On May 14, 1974, the Commission adopted Rule 17a-1 to require exchanges and associations to keep, and to permit the coping by members of the Commission's staff of, all documents made or received by such organizations in the course of their business and in the conduct of their self-regulatory activities.[3] Rule 17a-1 also requires that such records be kept for a period of not less than five years subject to the destruction and disposition provisions of Commission Rule 17a-6.

Shortly after the adoption of Rule 17a-1, Congress amended Section 17 of the Act as part of the 1975 Amendments and, by the addition of subparagraph (b) of Section 17, provided the Commission authority to obtain, in the course of examinations by representatives of the Commission, copies of any records maintained by exchanges and associations. While new subsection 17(a)(1) continued the requirement that exchanges and associations, among others, keep and provide the Commission with copies of such records as the Commission prescribes by rule, new subsection 17(b) expressly made "all records of persons described in subsection (a) subject at any time to * * * reasonable * * * examinations by representatives of the Commission. * * *" [4] The legislative history of the 1975 Amendments makes clear that Section 17(b) is self-executing by stating that there is "no need for the Commission, as a condition precedent to inspecting any records, to require by rule that the persons described in Section 17(a) keep any such records."[5] Furthermore, it states that "the authority to examine records would include the

[1] Pub. L. 94-29 (June 4, 1975).

[2] Section 17(a) at that time provided in petinent part: Every national securities exchange, * * * every registered secruities association * * * shall make, keep, and preserve for such periods, such accounts, correspondence, memoranda, paper, books, and other records, and make such reports, as the Commission by its rules and regulations may prescribe as necessary or appropriate in the public interest or for the protection of investors. Such accounts, correspondence, memoranda, papers, books, and other records shall be subject at any time or from time to time to such reasonable periodic, special or other examinations by examiners or other representatives of the Commission as the Commission may deem necessary or appropriate * * *.

[3] Securities Exchange Act Release No. 10809 (May 17, 1974), 39 FR 18765 (May 30, 1974).

[4] 15 U.S.C. 78q(b), as amended by Pub.L. 94-29 (June 4, 1975).

[5] S. Rep. 75, 94th Cong., 1st Sess. 120 (1975).

authority to make or require copies of such records."[6]

Accordingly, it is unlawful for any exchange or association to refuse to furnish to Commission staff members, upon request, copies of any documents made or received by such exchange or association in the course of its business or the conduct of its self-regulatory activities or, alternatively, to refuse to make such documents available for copying by the Commission staff members.[7] At the same time, the Commission has determined that paragraph (c) of Rule 17a–1 should be amended to conform the text of that rule to Section 17(a) as amended by the 1975 Amendments regarding the Commission's general authority to obtain copies of documents kept and preserved by exchanges and associations pursuant to Section 17(a). Accordingly, the Commission proposes to amend Part 240 of Chapter II of Title 17 of the Code of Federal Regulations by revising paragraph (c) of § 240.17a–1 as follows:

§ 240.17a–1 Recordkeeping rule for National Securities Exchanges and National Securities Associations.

* * * * *

(c) Every national securities exchange and national securities association shall, upon request of any representative of the Commission, promptly furnish to the possession of such representative copies of any doucments required to be kept and preserved by it pursuant to paragraphs (a) and (b) of this section.

By the Commission.

George A. Fitzsimmons,

Secretary.

November 14, 1979.

[FR Doc. 79–35713 Filed 11–19–79; 8:45 am]

BILLING CODE 8010–01–M

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17 CFR Part 270

[Release No. IC–10937, File No. S7–805]

Certain Prima Facie Investment Companies; Proposed Rule

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: The Commission today is proposing for public comment a rule which would deem certain companies which have more than 40 percent of their assets invested in investment securities—and, thus, are *prima facie* investment companies for the purposes of the Investment Company Act of 1940—not to be in fact such investment companies. The Commission upon application has granted numerous exemptive orders regarding such companies. The proposed rule would obviate the need for issuers to apply for, and the Commission to grant, such orders on a case-by-case basis.

DATE: Comments must be received by January 8, 1980.

ADDRESSES: Send comments in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. (Refer to File No. S7–805.) All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 1100 L Street, NW., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Mark J. Mackey, Esq., Investment Company Act Study Group, Division of Investment Management, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, (202) 272–3045.

SUPPLEMENTARY INFORMATION: The Commission today published for comment proposed rule 3a–1 (17 CFR 270.3a–1) under the Investment Company Act of 1940 ("Act") (15 U.S.C. 80a–1 et seq.) to deem certain companies meeting the statutory definition of the term "investment company" in section 3(a)(3) of the Act (15 U.S.C. 80a–3(a)(3)) not to be investment companies for purposes of the Act. Although such companies are, *prima facie*, investment companies under the Act, they are not in fact companies primarily engaged in an investment company business of the character which the Act was intended to regulate. The proposed rule was developed by the Division of Investment Management's Investment Company Act Study Group in the context of its re-examination of the regulation of investment companies.

I. Background

From time to time, certain companies meeting the statutory definition of the term "investment company" set forth in section 3(a)(3)[1] of the Act—and which are, *prima facie*, investment companies ("*prima facie* investment companies")—have filed applications with the Commission requesting that the Commission issue exemptive orders under section 3(b)(2) (15 U.S.C. 80a–3(b)(2))[2] to resolve their status under the Act. Generally, *prima facie* investment companies are either holding companies or industrial companies which have a substantial portion of their assets invested in securities issued by other companies. The Commission has granted numerous orders pursuant to section 3(b)(2) declaring a company not to be an investment company for purposes of the Act, upon its finding that the *prima facie* investment company is engaged primarily in a business or businesses other than that of investing, reinvesting, owning, holding or trading in securities.

A. Section 3(a)(3)

Section 3(a)(3) of the Act defines the term "investment company" to be any issuer which is engaged or proposes to engage in the business of investing, reinvesting, owning, holding or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 percent of the value[3] of such issuer's total assets (exclusive of Government securities and cash items)[4]

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[6] *Id.*

[7] *See* Securities Exchange Act Release No. 16278 (October 12, 1979), 44 FR 60281 (October 19, 1979).

[1] Section 3(a)(3) defines the investment company, in part, to be an issuer which—is engaged or proposes to engage in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 per centum of the value of such issuer's total assets (exclusive of Government securities and cash items) on an unconsolidated basis.

For purposes of section 3(a), "investment securities" includes all securities except (A) Government securities, (B) securities issued by employees' securities companies, and (C) securities issued by majority-owned subsidiaries of the owner which are not investment companies.

[2] Section 3(b)(2) of the Act, in part, excludes from the definition of investment company in section 3(a)(3) of the Act—Any issuer which the Commission, upon application by such issuer, finds and by order declares to be primarily engaged in a business or businesses other than that of investing, reinvesting, owning, holding, or trading in securities either directly or (A) through majority-owned subsidiaries or (B) through controlled companies conducting similar types of businesses * * *.

[3] Section 2(a)(41) of the Act (15 U.S.C. 80a–2(a)(41)), in part, defines the term "value" with respect to the assets of registered investment companies, as used in section 3 of the Act to mean—(i) with respect to securities owned at the end of the last preceding fiscal quarter for which market quotations are readily available, the market value at the end of such quarter; (ii) with respect to other securities and assets owned at the end of the last preceding fiscal quarter, fair value at the end of such quarter, as determined in good faith by the board of directors; and (iii) with respect to securities and other assets acquired after the end of the last preceding fiscal quarter, the cost thereof * * *. The definition of "value" in section 2(a)(41) also applies to companies which are not registered under the Act. See SEC v. Fifth Avenue Coach Lines, Inc., 289 F. Supp. 3 at 27 n.13 (S.D.N.Y. 1968), *aff'd*, 435 F.2d 510 (2 Cir. 1970).

[4] The Act does not define specifically the term "cash items." Although an early draft of the Act defined the term to include "cash, bank deposits and current accounts receivable," this definition did not appear in the bill presented to Congress. Kerr, The Inadvertent Investment Company: Section 3(a)(3) of the Investment Company Act, 12 Stan. L. Rev. 29 at n.50 (1959).

Whether certificates of deposit are to be considered cash items or investment securities, for purposes of determining whether an issuer holding them is an investment company under section 3(a)(3), depends on the purpose for which such

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on an unconsolidated basis.[5] The term "investment securities" is defined in the section as including all securities except (A) Government securities, (B) securities issued by employees' securities companies, and (C) securities issued by majority-owned subsidiaries of the owner which are not investment companies.[6]

Section 3(a)(3) of the Act was based on an exhaustive study of 1800 companies.[7] It was intended to serve as a mechanism whereby companies holding securities could determine easily and quickly whether they were investment companies for purposes of the Act.[8] Thus, industrial companies having a relatively minor—that is, less than 40 percent—portion of their assets invested in investment securities are not within the scope of the definition of the term "investment company" found in section 3(a)(3).[9] Similarly, notwithstanding the fact that more than 40 percent of their total assets are invested in securities, many holding companies are also outside the scope of that definition since securities of majority-owned subsidiaries, which are not themselves investment companies, are excluded from the definition of the term "investment securities."[10]

B. Section 3(b)(1) and Section 3(b)(2)

Although Congress and the Commission in 1940 believed that section 3(a)(3) would effectively exclude most ordinary holding and industrial

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interests are held, the circumstances under which they were acquired, the length of the period for which they are held, the amount held in comparison with the company's other assets, and any other "special circumstances." See, SEC v. Fifth Avenue Coach Lines, n.3, supra, at 31. For example, certificates of deposit purchased as an integral part of an operating business—such as during a transition between lines of business or as a result of seasonal liquidity requirements—may be treated as cash items. When it cannot be shown conclusively that the operating business requires substantial liquid assets, however, such deposits may be considered investment securities for purposes of section 3(a)(3). See SEC v. American Deposit Trust Co. (Current) Fed. Sec. L. Rep. (CCH) ¶96,808 (M.D. Fla., Mar. 12, 1979); and staff response to inquiry of Josephthal & Co. (Nov. 25, 1974) [1974–1975 Transfer Binder], CCH Fed. Sec. L. Rep. ¶80,116.

[5] The Act requires unconsolidated financial statements presumably because consolidation of an issuer with a subsidiary which is majority-owned, but not wholly-owned, will distort the relative value of the issuer's investment securities to its other assets. This distortion would occur since consolidation requires all the subsidiary's assets to be included on the issuer's balance sheet, regardless of whether the subsidiary is wholly-owned. Distortion of the 40 percent standard also could occur in consolidating a company with a subsidiary which is highly leveraged, since section 3(a)(3) looks only to the company's assets. However, it should be noted that any distortion caused by leveraging can occur regardless of whether the parent has any subsidiaries. For example, a company with no subsidiaries which is approaching the 40 percent level of investment securities could cause itself to become highly leveraged, thus decreasing the percentage of the company's assets which are investment securities. However, if the transaction is not done for a *bona fide* business purpose other than circumventing the Act's provisions, it should not be considered in determining the company's status under the Act. Moreover, such a company additionally may be deemed an investment company as defined by section 3(a)(1) of the Act (15 U.S.C. 80a–3(a)(1)).

[6] Government securities are defined in section 2(a)(16) of the Act (15 U.S.C. 80a–2(a)(16)), in part, as any security issued or guaranteed as to principal or interest by the United States. Their exclusion from the definition of investment securities allows an industrial company to place its current assets in an interest bearing medium without being deemed an investment company. Congress presumably considered these securities to be an appropriate short-term use for an industrial corporation's surplus funds.

An employees' securities company is defined in section 2(a)(13) of the Act (15 U.S.C. 80a–2(a)(13)) as, generally, any investment company all the outstanding securities of which, other than short-term paper, are owned by, among others, employees of a company. Such companies' securities may have been excluded from the definition of investment securities to encourage employer participation in such companies. See sections 6(b) (15 U.S.C. 80a–6(b)) and 2(a)(13)(E) of the Act.

Majority-owned subsidiaries are defined in section 2(a)(24) (15 U.S.C. 80a–2(a)(24)) as, generally, a company 50 percent or more of the outstanding voting securities of which are owned by one person. Such companies' securities are excluded from the definition of investment securities if they are not themselves investment companies, presumably since this type of investment is more akin to activities of a holding company than an investment company. The requirement that the subsidiary not be an investment company prevents a company's circumventing section 3(a)(3) by carrying on its investment company activities through a majority-owned subsidiary.

[7] Hearings before a Subcommittee of the Committee on Banking and Currency, United States Senate, 76th cong., 3d Sess. on S. 3580, at 176 (1940) ("Senate Hearings"). Section 3(a)(3) "was based on a very detailed analysis * * * of every corporation which was listed on any exchange in this country." Hearings before a Subcommittee of the Committee on Interstate and Foreign Commerce, House of Representatives, 76th cong., 3d Sess. on H.R. 10065 at 101 (1940) ("House Hearings").

Section 3(a)(3) has its genesis in the Commission Report on Investment Trusts and Investment Companies which defined the term "investment company," generally, as a company having over 50 percent of its assets (exclusive of cash and United States Government securities) invested in securities other than United States Government securities, and securities issued by majority-owned subsidiaries which were not investment companies ("50 percent formula"). See Securities and Exchange Commission, Investment Trusts and Investment Companies (1939) ("1939 Report").

The 50 percent formula constituted a "*prima facie*," and not the absolute, test of whether a company would be considered an investment company. When a company's percentage of non-subsidiary securities was less than 50 percent of the company's total assets but approaching that figure, the Commission examined all the facts and circumstances to determine whether, notwithstanding the company's having had less than 50 percent of its assets invested in non-subsidiary securities, the company was an investment company. The Commission applied the 50 percent formula to 2000 industrial corporations to determine whether it "would encompass corporations not ordinarily regarded as investment companies." 1939 Report at 20. Only ten such companies were found to be investment companies under that definition.

The initial draft of the Act submitted to Congress by the Commission contained alternative definitions of the term "investment company." One definition, which evolved into section 3(a)(3), adopted the statistical approach set forth in the 1939 Report as the *"prima facie"* test. The other definition, which evolved into section 3(a)(1), employed, among other things the "all the facts and circumstances" approach used by the Commission in close cases. (Section 3(a)(2) (15 U.S.C. 80a–3(a)(2)), regarding face-amount certificate companies, was not included in the original draft of the Act.

[8] House Hearings at 101. Section 3(a)(3) is comprised of two elements, both of which must be met for a company to be defined as a investment company under that provision. Fifth Avenue Coach Lines, n.3, supra, at 30. The first element is that the issuer to engaged in the business of investing, reinvesting, owning, holding or trading in securities. A company with an inactive portfolio of securities may be an investment company, therefore, if "owning" or "holding" investment securities is the company's "business." See Fifth Avenue Coach Lines n.3, supra; and Atlantic Coast Line Co., 11SEC 661 (1942). The second element is that the issuer own or propose to acquire investment securities having a value exceeding 40 percent of the value of the issuer's total assets (exclusive of government securities and cash items) on an unconsolidated basis.

In this regard, it should also be noted that section 3(a)(3) differs in many respects from section 3(a)(1), which defines the term investment company, in part, to be an issuer which is "engaged primarily * * * in the business of investing reinvesting or trading insecurities." Among the differences are: Section 3(a)(1) requires the issuer to be "primarily" engaged in the business of investing, reinvesting or trading in securities while section 3(a)(3) requires only that the issuer be "engaged" in that business; section 3(a)(1) applies to companies which invest in any type of security, while section 3(a)(3) applies only to companies investing in "investment securities"; and section 3(a)(1) does not apply to companies which merely "own or hold" securities, while section 3(a)(3) applies to such companies.

[9] The Act's legislative history does not explain specifically the reasons why a 50 percent portfolio composition of investment securities test was used to define an investment company for purposes of the 1939 Report, but a 40 percent figure was incorporated into section 3(a)(3) of the Act. However, it should be noted that the 50 percent formula was employed in the 1939 Report only to determine whether "the formula would encompass corporations not ordinarily regarded as investment companies." 1939 Report at 20. That standard was not used to ascertain whether any companies which might arguably be investment companies were *excluded* from the 1939 Report by the 50 percent formula. Rather, that determination was to be made based on all the facts and circumstances in those cases where the percentage of a company's non-subsidiary securities was less than, but approaching, 50 percent. See n.7, supra. Thus, adoption of a 40 percent figures is not inconsistent with the 50 percent figure used for the 1939 Report. Indeed, Congress might have believed that neither a 50 percent nor a 40 percent cut-off point would bring ordinary industrial companies within the jurisdiction of the Act. This theory is supported by the Act's legislative history which indicates that, although the 40 percent figure was tested extensively to determine whether it would bring any non-investment companies within the purview of the Act, "very, very few companies were caught by this (40 percent) formula." Senate Hearings at 176–177.

[10] All holding companies are not outside the section 3(a)(3) definition. For example, holding companies which do business through non-majority owned, controlled companies are not so excepted.

companies from the Act's prohibitions and regulatory provisions, section 3(b)(1) (15 U.S.C. 80a–3(b)(1)) and section 3(b)(2) were added to further ensure their exclusion.[11] Section 3(b)(1) of the Act provides, generally, that any issuer which is primarily engaged, either directly or through wholly-owned subsidiaries,[12] in a business other than that of investing, reinvesting, owning, holding or trading in securities is excluded from the definition of the term "investment company," although that issuer otherwise would be an investment company as defined in section 3(a)(3) of the Act. Section 3(b)(2) of the Act provides, generally, that any issuer which the Commission finds, and by order declares to be, primarily engaged—directly, or through majority-owned subsidiaries,[13] or through controlled companies [14] conducting similar types of businesses [15]—in a business other than that of investing, reinvesting, owning, holding or trading in securities is excluded from the Act, although the issuer otherwise would be an investment company as defined in section 3(a)(3) of the Act.[16]

It should be noted that certain operational differences exist between section 3(b)(1) and section 3(b)(2). Section 3(b)(1) is self-operating,[17] while section 3(b)(2) requires a Commission order. Additionally, section 3(b)(1) applies only to companies operating either directly or through *wholly-owned* subsidiaries, while section 3(b)(2) applies additionally to companies operating through *majority-owned* subsidiaries and certain *controlled* companies. These differences ensure that "special situation investment companies" are not excluded from the act's definition of investment company.[18] Special situation investment companies are companies which secure control of other companies primarily for the purpose of making a profit in the sale of the controlled company's securities.[19] Accordingly, they are considered to be investment companies for purposes of the Act.[20]

Critical to a determination of whether a company is excluded from the definition of investment company by section 3(b)(1) or 3(b)(2) is whether the company is "primarily engaged" in a non-investment company business.[21] The determination of a company's primary engagement is a factual issue concerning the nature of its business.[22] Relevant criteria for resolving this issue are: (1) The company's historical development, (2) its public representation of policy, (3) the activity of its officers and directors,[23] (4) the nature of its present assets, and (5) the sources of its present income.[24] Of these factors, most significant are the character of a company's assets (as evidenced by the percentage of the company's assets invested in investment securities), and the sources of the company's present income (as evidenced by the percentage of the company's income derived from investment securities.) [25] In such an analysis, securities of controlled companies through which a holding company engages in a business other than an investment company business effectively are not considered to be investment securities.[26]

Since determining a company's primary engagement involves considering many factors, no specific guidelines can be established for concluding in all conceivable circumstances whether a company is an investment company. As a general rule, however, if a company has no more than 45 percent of its assets invested in—and derives no more than 45 percent of its income from—investment securities, it is

[11] See House Hearings at 102; Senate Hearings at 177. The 1939 Report contains no provision comparable to section 3(b)(1) or 3(b)(2) of the Act. Instead, it adopted a formula, discussed in n.7 supra, similar to that found in section 3(a)(3) of the Act. Thus, with regard to holding companies, the 1939 Report excluded from the definition of the term "investment company" only those companies which operated through majority-owned companies. The Commission endorsed this approach even though it might cause some holding companies—that is, those which do business through non-majority owned, controlled companies—to be deemed investment companies for purposes of the 1939 Report because the Commission determined there was a "need for studying certain borderline companies even though they night not eventually be encompassed within the scope of possible legislation." 1939 Report at 2. Moreover, the 1939 Report did not provide that industrial companies having substantial investment securities holdings were excluded form its definition of the term "investment company." Such a provision may have been considered unnecessary since the analytical standard used by the 1939 Report (i.e., 50 percent) was less inclusive than the 40 percent mechanical standard adopted subsequently in the Act.

[12] The term "wholly-owned subsidiary" is defined in section 2(a)(43) of the Act (15 U.S.C. 80a–2(a)(43)), in part, as a company 95 percent or more of the outstanding voting securities of which are owned by one person.

[13] The term "majority-owned subsidiary" is discussed in n.6, supra.

[14] The term "control" is defined in section 2(a)(9) (15 U.S.C. 80a–2(a)(9)), in part, as the power to exercise a controlling influence over the management or policies of a company, unless such power is solely the result of an official position with such company. Obviously, majority-owned and wholly-owned subsidiaries are "controlled companies."

[15] The phrase "similar types of businesses" was included by Congress since a control relationship, involving a "more tenuous business engagement" than that which exists between a parent and its majority-owned or wholly-owned subsidiary, requires an additional standard of similarity amongst the controlled companies to "make the reach of the Act reasonably comprehensive." American Manufacturing Co., Inc., 41 SEC 415 at 420 (1963).

[16] Section 3(b)(1) excludes from the definition of investment company in section 3(a)(3) of the Act—

Any issuer primarily engaged, directly or through a wholly-owned subsidiary or subsidiaries, in a business or businesses other than that of investing, reinvesting, owning, holding, or trading in securities.

The text of section 3(b)(2) is found at n.2, supra.

[17] Because section 3(b)(1) is self-operating, while resolution of issues raised under section 3(b)(2) requires a Commission order, the commission's staff quite properly has been reluctant to issue "no-action" or interpretive letters respecting section 3(b)(1).

[18] House Hearings at 102; Senate Hearings at 178–179.

[19] In contrast, a holding company generally secures control of other companies primarily for the purpose of engaging in the other companies' line of business. for a holding company to be excluded by section 3(b)(1) or 3(b)(2) from the Act's definition of investment company, it must both control the companies it claims to do business through and actively exercise that control, i.e., it must engage in the non-investment company business "through" the controlled or subsidiary companies. See, Atlantic Coast Line Co., n.8, supra; and Business Property Associates, 12 SEC 845 (1943).

[20] Frobisher Limited, 27 SEC 944, at 950 (1948); Bankers Securities Corporation, 15 SEC 695 (1944), *affd*, 146 F.2d 88 (3d Cir. 1944). Although a company may actively manage its portfolio companies and thus appear superficially to be a holding company, an examination of its operating history may disclose that it is a special situation investment company. Such would be the case, for example, if the company had a history of buying or selling controlling interests in companies. In this regard, the Commission notes that a special situation investment company may operate by purchasing and selling securities of controlled companies, majority-owned subsidiaries or wholly-owned subsidiaries.

[21] This business may be engaged directly by an industrial company. See, e.g., Real Silk Hosiery Mills, Inc., 36 SEC 365 (1955); and Hoskins Manufacturing Co., 8 SEC 578 (1941). However, typically it is engaged indirectly by a holding company operating through one or more controlled or subsidiary companies.

[22] M. A. Hanna Co., 10 SEC 581, 583 (1941).

[23] The activities of the officers and directors are relevant for determining both control and whether the parent company is engaged in a non-investment company business "through" another company. See Business Property Associates, n.19, supra, at 850.

[24] Tonapah Mining Company of Nevada, 26 SEC 426 at 427 (1947). Although that decision was decided under section 3(b)(2) of the Act, the "primary engagement" standard set forth in that case also appears to be applicable to the identical standard of section 3(a)(1) and 3(b)(1). See AVC Corporation, Investment Company Act Release Nos. 5937 and 5778 (Dec. 22, 1969, and August 13, 1969); Atlas Corporation, 41 SEC 144 (1962); and M. A. Hanna Co., n.22, spupra, at 583.

[25] Tonapah Mining Company of Nevada, n.24, supra, at 427, 430–31.

[26] See, e.g., Standard Shares, Inc., Investment Company Act Release Nos. 10234 and 10200 (May 9, 1978, and Apr. 11, 1978); and Newmont Mining Corp., 36 SEC 429 (1955). This analysis is necessary to exclude holding companies from the Act. For example, if a holding company has as its sole asset, and receives all its income from, a 40 percent controlling interest in a company thorugh which it engages primarily in a non-investment company business, it could be granted an order under section 3(b)(2), although 100 percent of its assets are investment securities and 100 percent of its income is derived from these investment securities.

primarily engaged in a business other than being an investment company. Accordingly, it would not appear necessary or appropriate in the public interest for the Commission to regulate such a company under the Act.[27]

II. Discussion

The Commission proposes to adopt rule 3a–1 under the Act which, under specified circumstances, would exclude certain *prima facie* investment companies from regulation under the Act. The proposed rule is not intended to exclude from the Act all companies which could qualify upon application to the Commission for receipt of an order pursuant to section 3(b)(2) of the Act. Rather, it would exclude only those companies whose asset composition and sources of income would provide conclusive evidence that such companies are not investment companies for purposes of section 3(a)(3) the Act. In such circumstances, there would be no need for the Commission to conduct a formal inquiry into other facts and circumstances which may more fully characterize a particular company's business.[28] However, companies which do not meet the proposed rule's standards nonetheless may be found, pursuant to the application process, not to be investment companies upon the commission's determining that the attendant facts and circumstances warrant such a finding.

The proposed rule would apply to companies which are investment companies solely by virtue of the definition stated in section 3(a)(3) of the Act, only for that period during which they comply with the rule's standards. Companies meeting the statutory definition of the term "investment company" set forth in sections 3(a)(1) or 3(a)(2) of the Act as well as special situation investment companies would not be excluded from the Act's definition of "investment company" by the rule.

The exemptive relief which would be provided by proposed rule 3a–1 would be conditioned on the company's having no more than 45 percent of the value (as defined in section 2(a)(41)(A) of the Act) of its total assets (exclusive of Government securities and cash items [29]) consisting of, and receiving no more than 45 percent of its net income after taxes [30] from, securities other than: (1) Government securities; (2) securities issued by employees' securities companies; (3) securities issued by majority-owned subsidiaries of the issuer (other than subsidiaries relying on the exclusion from the definition of investment company in section 3(b)(3) of the Act (15 U.S.C. 80a–3(b)(3)) [31]) which are not investment companies; and (4) securities issued by certain controlled companies through which an issuer engages in a non-investment company business. [32]

These asset and income percentages are to be determined on an unconsolidated basis, except that the issuer shall consolidate its financial statement with any wholly-owned subsidiaries.[33]

Text of Proposed Rulemaking

It is proposed to amend Part 270 of Chapter II of Title 17 of the Code of Federal Regulations by adding § 270.3a–1 as follows:

§ 270.3a–1 Certain prima facie investment companies.

Notwithstanding section 3(a)(3) of the Act, and issuer will be deemed not to be an investment company under the act; *Provided*, That:

(a) No more than 45 percent of the value (as defined in section 2(a)(41) of the Act) of such issuer's total assets (exclusive of Government securities and cash items) consists of, and no more than 45 percent of such issuer's net income after taxes is derived from, securities other than:

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[27] See, e.g., Standard Shares, Inc., Investment Company Act Release Nos. 10234 and 10200 (May 9, 1978, and Apr. 11, 1978); and United International Research, Inc., Investment Company Act Release Nos. 7841 and 7797 (May 31, 1973, and May 2, 1973). If either or both of these percentages is greater than 45 percent, all the facts and circumstances will be examined in determining the company's primary engagement in the context of an application for an order under section 3(b)(2).

[28] For example, it would not be necessary to inquire whether controlled subsidiaries are conducting similar types of business. It should be noted that the Act does not require such a standard regarding majority-owned subsidiaries—apparently inferring that a company actually does business "through" any company of which it is majority-owner. The proposed rule's requriement that companies which are not majority-owned be "controlled primarily" by an issuer which does business "through" the company provides an identical standard regarding issuers controlling such companies.

Of course, an issuer's complying with the provisions of the rule, while excusing it from compliance with the Act, would not constitute a determination by the Commission as to the business in which a particular issuer is actually engaged.

[29] For purposes of determining compliance with the proposed rule, cash, coins, paper currency, demand deposits with banks, timely checks of others (which are orders on banks to immediately supply funds), cashier checks, certified checks, bank drafts, money orders, traveler's checks and letters of credit generally would be considered cash items. Certificates of deposits and time deposits typically would not be considered cash items absent convincing evidence of no investment intent. See n.4, supra.

[30] Whether capital gains should be considered investment income for purposes of determining compliance with the proposed rule depends upon whether the issuer relies upon such gains as a regular source of income. For such purposes, capital gains realized on sales of investment securities (excluding securities of controlled companies through which the issuer engages in a non-investment company business) generally should be treated as investment income.

[31] Because of an apparent anomaly, in some situations it cannot be determined whether a company is an investment company under section 3(a)(3) without first deciding whether its subsidiary is excluded by section 3(b)(3). This latter determination may not be made without first determining whether the parent is an investment company as defined in section 3(a)(3) which is entitled to rely on section 3(b)(1) or 3(b)(2). In deciding whether an issuer is an investment company under section 3(a)(3), the investment company status of the issuer's wholly-owned subsidiaries should be determined without reference to the exclusion from the definition of investment company which is provided by section 3(b)(3) of the Act.

[32] These provisions regarding controlled companies, which would exclude holding companies from the definition of investment company, generally codify orders granted by the Commission under section 3(b)(2) of the Act. See n.26, supra. To ensure that only holding companies can rely on it, the proposed rule incorporates the statutory requirements of section 3(b)(1) and section 3(b)(2) that the issuer do business "through" the controlled company. Since such an issuer would presumably be more likely to maintain an active role in managing its affairs with a controlled company—that is, it would do business "through" the controlled company—than would an issuer which may control jointly another company, the proposed rule would require the issuer to *primarily* control the controlled company. The proposed rule also would require that the controlled company not be an investment company. This requirement—which is comparable to the requirement in section 3(a)(3) relating to majority-owned subsidiaries—prevents a company from avoiding the Act by merely carrying on its investment company activities through a controlled company. See n.8, supra. Of course, no person may rely on this rule who transfers assets to affiliated persons primarily for the purpose of avoiding the Act.

[33] On an unconsolidated basis, a company's interest in its wholly-owned subsidiary is entered on the balance sheet at historical cost plus its interest in the subsidiary's net change in equity since the date of acquisition. Such an entry may distort the relative current value of the company's investment securities in relation to its other assets. If, for example, a parent company has a relatively large portfolio of investment securities in comparison with its other assets, the company might be considered an investment company under section 3(a)(3), although it has extensive industrial operations through its wholly-owned subsidiaries.

Accordingly, paragraph (c) of proposed rule 3a–1 would require a company wishing to rely on the proposed rule to consolidate its assets and income with those of its wholly-owned subsidiaries for purposes of determining the asset and income percentages described in paragraph (a) of the rule. The 1939 Report indicates instances where the Commission believed the nature of a company was more accurately reflected by a consolidated statement than by an unconsolidated statement. 1939 Report at 19 n.11. Moreover, paragraph (c) would not cause significant distortion of the type discussed in n.5, supra, which can occur when all the subsidiaries' assets are included in the issuer's balance sheet, because it would apply only when a subsidiary is wholly-owned. Finally, to the extent that paragraph (c) would exclude certain holding companies which operate through wholly-owned subsidiaries it would be consistent with the Act's intent. See House Hearings at 102.

(1) Government securities;
(2) Securities issued by employees' securities companies;
(3) Securities issued by majority-owned subsidiaries of the issuer (other than subsidiaries relying on the exclusion from the definition of investment company in section 3(b)(3) of the Act) which are not investment companies; and
(4) Securities issued by companies:
(i) Which are controlled primarily by such issuer;
(ii) Through which such issuer engages in a business other than that of investing, reinvesting, owning, holding or trading in securities; and
(iii) Which are not investment companies;
(b) The issuer is not a special situation investment company; and
(c) The percentages described in paragraph (a) of this section are determined on an unconsolidated basis, except that the issuer shall consolidate its financial statements with the financial statments of any wholly-owned subsidiaries.

Statutory Basis

Proposed rule 3a–1 is promulgated pursuant to the provisions of sections 6(c) (15 U.S.C. 80a–6(c)) and 38(a) (15 U.S.C. 80a–37(a)) of the Act.

November 13, 1979.

By the Commission.

George A. Fitzsimmons,

Secretary.

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17 CFR Part 270

[Release No. IC–10938, File No. S7–806]

Definition of Beneficial Ownership in Certain Issuers; Proposed Rulemaking

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Investment Company Act of 1940 excludes from the definition of investment company certain issuers having specified characteristics, including that its outstanding securities are beneficially owned by not more than 100 persons. Beneficial ownership by a company is deemed to be beneficial ownership by one person if the company owns less than 10 percent of the issuer's voting securities. For purposes of this exclusion, beneficial ownership by a company of 10 percent or more of such issuer's outstanding voting securities is deemed to be beneficial ownership by the holders of that company's outstanding securities. Such a determination may result in an issuer, which would be otherwise excluded from that definition, being considered an investment company for purposes of this act. In this regard, the Commission is requesting public comment on an amendment to a rule under the Investment Company Act of 1940 to deem, under specific circumstances, a company's owning 10 percent or more of an issuer's outstanding voting securities to be beneficial ownership by one person. As presently effective, the rule affords such treatment exclusively to a company's ownership of outstanding voting securities of certain small business investment companies.

DATE: Comments must be received by January 8, 1980.

ADDRESSES: Send comments in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549. (Refer to File No. S7–806.) All comments will be available for public inspection and copying in the Commission's Public Reference Room, 1100 L Street, NW., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Mark B. Goldfus, Special Counsel, (202) 272–2048; or Joseph F. Mazzella, Esq., (202) 272–2033, Investment Company Act Study Group, Division of Investment Management, Securities and Exchange Commission, 500 N. Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission today proposed for public comment an amendment to rule 3c–2 (17 CFR 270.3c–2) under the Investment Company Act of 1940 (15 U.S.C. 80a–1 et seq.) ("Act"), which would deem beneficial ownership of 10 percent or more of the voting securities of an issuer to be ownership by one person for purposes of section 3(c)(1) of the Act (15 U.S.C. 80a–3(c)(1)). The proposed amendment was developed by the Division of Investment Mangement's Investment Company Act Study Group in the context of its re-examination of the regulation of investment companies.

Background

Section 3(c)(1) of the Investment Company Act of 1940 excludes from the definition of investment company an issuer whose outstanding securities (other than short-term paper) are beneficially owned by no more than 100 people and which is not making and does not propose to make a public offering of its securities. This section is intended to exclude from regulation under the Act private holding companies and private investment companies which are not within the Act's purview.[1] For purposes of section 3(c)(1), beneficial ownership by a company is considered to be beneficial ownership by one person; except that, if a company holds 10% or more of the outstanding voting securities of the issuer, beneficial ownership will be attributed to the holders of the owning company's outstanding securities (other than short-term paper). This provision is designed to prevent the "easy circumvention"[2] of the Act by selling securities of nominally private investment companies to intermediary corporate shells which, in turn, would sell their securities to public investors.[3]

The Commission, in rule 3c–2 under the Act, has previously determined, in part, that ownership by a company of 10% or more of the voting securities of certain small business investment companies may be deemed, under specific circumstances, ownership by one person "without adversely affecting the public investor interest or achievement of the statutory purposes of the Act."[4] These circumstances generally require that (a) the value of all securities of such small business investment companies owned by such company do not exceed 5% of its total assets; or (b) the small business investment company's securities are owned by a state development corporation which was created by the state legislature to promote and assist the growth and development of the

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[1] David Schenker, Chief Counsel of the Commission's Investment Trust Study that was the basis for the legislation enacted as the Act, testified that "[u]nless the company has 100 public stockholders, it is not a public investment company within the purview of this legislation." A Bill to Provide for the Registration and Regulation of Investment Companies and Investment Advisers, and for other purposes: Hearings on H.R. 10065 before a Subcommittee of the House Committee on Interstate and Foreign Commerce, 76th Cong., 3d Sess. (1940), p. 102 ("Schenker testimony").

[2] A Bill to Provide for the Registration and Regulation of Investment Companies and Investment Advisers and for other purposes: Hearings on S. 3580 before a Subcommittee of the Senate Committee on Banking and Currency, 76th Cong., 3d Sess. (1940), p. 180.

[3] As stafed in the Schenker Testimony, at pp. 102–3: In order to prevent circumvention, we have said that if any company owns 10 percent of an investment-company voting stock, and the 10 percent owning company is owned by more than 100 people, then you count the stockholders of the owning company as stockholders of the controlled company. We have to adapt this procedure. Otherwise you can see what would happen. A person organizes an investment trust, and has another corporation take all of the stock of the investment trust, which corporation sells its stock to the public. Then technically the investment trust has only one stockholder, the corporation—but the corporation has public stockholders. These stockholders are then counted as the security holders of the investment trust.

[4] Investment Company Act Release No. 2899 (July 21, 1959), 24 FR 6008 (1959).

state's economy on a statewide basis, provided that the state development corporation would not be an investment company as defined in section 3 of the Act. The availability of this rule regarding such small business investment companies, which would be re-designated as paragraph (a) of amended rule 3c–2, would not be affected by the proposed amendment.

Discussion

The Commission is proposing to amend rule 3c–2 under the Act to extend that rule to apply, in certain circumstances, to interests in otherwise private investment companies in addition to certain small business investment companies.[5] Proposed paragraph (b) of rule 3c–2 would, for purposes of section 3(c)(1) of the Act, deem beneficial ownership by a company owning 10% of the outstanding voting securities of any issuer other than specified small business investment companies to be beneficial ownership by one person if and so long as the value of all securities of all issuers who are excluded from the definition of investment company by section 3(c)(1) of the Act owned by such company does not exceed 5% of the value of the company's total assets. As has been the case with those situations already covered by rule 3c–2, in such circumstances the participation of these companies in such issuers would comprise a sufficiently small percentage of their assets that there would be no public interest in attributing their participation to their shareholders. In particular, this limitation on the percentage of a company's assets which may be invested in these issuers would ensure that such company is not acting as an intermediary for issuers to circumvent application of the Act.

[5] The Commission's staff has, in response to requests therfor, provided "no-action" assurances to certain limited partnerships which stated their intent not to register under the Act, although more than 10% of the partnership interests were owned by companies which, if their ownership of partnership interests were attributed to their shareholders, would result in having more than 100 beneficial owners for purposes of section 3(c)(1) of the Act. The "no-action" assurances were conditioned on the companies' ownership in the partnership representing no more than 5% of the owning companies' assets, and, under some circumstances, representing no more than 5% of its income. The assurances apparently were prompted by the possibility that where a person owns a significant amount of limited partnership interests or serves as general partner to the limited partnership he may, by reason of such ownership, have powers similar to those held by an owner of voting securities, and that, therefore, the partnership interests may be considered the equivalent of voting securities for purposes of section 3(c)(1). See staff responses to inquiries of WestVen (Apr. 8, 1976), Pierce, Lewis & Dolan (Mar. 17, 1972), and Devonshire Capital Corporation (Jan. 16, 1976).

Therefore, it appears that it would not be necessary or appropriate in the public interest to regulate under the Act such private investment media as investment companies.

However, the proposed amendment would not apply insofar as section 3(c)(1) would exclude an issuer from being deemed to be an investment company under section 12(d)(1) (15 U.S.C. 80a–12(d)(1)) of the Act.[6] Thus, investment companies contemplating purchases of shares of such issuers, or such issuers contemplating sales of their shares to registered investment companies, would be required to comply with the provisions of section 12(d)(1). This requirement would ensure that persons cannot rely on this rule to evade those provisions of the Act which generally limit the acquisition by a registered investment company (or any controlled company thereof) of securities issued by any other investment company (or any controlled company thereof).

Text of Proposed Rule

It is proposed that Part 270 of Chapter II of Title 17 of the Code of Federal Regulations be amended by adding a new paragraph (b) to § 270.3c–2 and designating the present paragraph as paragraph (a), as follows:

§ 270.3c–2 Definition of beneficial ownership as used in section 3(c)(1) of the Act.

(a) * * *

(b) For the purpose of section 3(c)(1) of the Act, beneficial ownership by a company owning 10 per centum or more of the outstanding voting securities of any issuer which is not an issuer described in paragraph (a) of this section shall be deemed to be beneficial ownership by one person if and so long as the value of all securities of all issuers (other than any issuer described in paragraph (a) of this section) who are excluded from the definition of investment company by section 3(c)(1) of the Act owned by such company does not exceed 5 per centum of the value of the company's total assets: *Provided,* That such issuer nonetheless is deemed to be an investment company for purposes of section 12(d)(1) of the Act.

Statutory Basis: Amended rule 3c–2 is promulgated pursuant to the provisions of section 6(c) (15 U.S.C. 80a–6(c)) and 38(a) (15 U.S.C. 80a–37(a)) of the Act.

November 13, 1979.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79–35795 Filed 11–19–79; 8:45 am]

BILLING CODE 8010–01–M

[6] Section 12(d)(1) of the Act, in part, generally prohibits a registered investment company from purchasing more than three percent of the total outstanding voting stock of any other investment company, from acquiring securities in another investment company in excess of 5% of the acquiring company's total assets, or from acquiring securities in other investment companies which have an aggregate value of greater than 10% of the acquiring company's assets. These restrictions were added by Congress in 1970 to prevent the pyramiding of costs and control of investment companies. See Investment Company Amendments Act of 1970: Report of the House Committee on Interstate and Foreign Commerce, H.R. Rep. No. 1382, 91st Cong., 2d Sess. (1970) at 23. As presently applicable, rule 3c–2 does not address specifically any concern against such pyramiding in recognition of the Small Business Administration's general prohibitions against a small business investment company's providing funds to specified small business concerns for purposes of relending or reinvesting. See 13 CFR 107.1001.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[18 CFR Parts 2, 154, and 270]

[Docket No. RM80–6]

Pricing of Pipeline and Affiliate Production Under the Natural Gas Act

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Commission is proposing to amend its regulations governing the cost component under the Natural Gas Act (NGA) for certain production by interstate pipelines and their affiliates which does not qualify for first sale treatment under the Natural Gas Policy Act (NGPA). In general, production previously allowed the area or nationwide rates under the NGA would be priced by reference to NGPA maximum lawful prices and could be included in the pipeline's PGA clause.

DATES: Public hearing January 7, 1980, 10:00 a.m. Requests to participate by December 28, 1979. Written comments by January 14, 1980.

ADDRESSES: Public hearing in Hearing Room A, Federal Energy Regulatory Commission, Washington, D.C. Send comments and requests to participate in public hearing to Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. Reference Docket No. RM80–6.

FOR FURTHER INFORMATION CONTACT:

Eli Farrah, Office of the General Counsel, Federal Energy Regulatory Commission, Room 4008–E, 825 North Capitol Street, NE., Washington, D.C. 20426, (202)357–8316.

Jane Phillips, Office of the General Counsel, Federal Energy Regulatory Commission,

Room 8104–B, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357–8033.
November 14, 1979.

I. Background

The Federal Energy Regulatory Commission (Commission) has issued in final form § 270.203 of its regulations which implements section 2(21) of the Natural Gas Policy Act of 1978 (NGPA). Section 270.203 controls which sales by a pipeline, distributor or affiliate thereof will be considered first sales under the NGPA and thus subject to NGPA Title I prices. Interstate pipeline production which does not qualify for first sale treatment under the NGPA is subject to continuing regulation under the Natural Gas Act (NGA).

Under § 270.203 of the Commission's final regulations concerning pipeline production, sales of volumes not totally attributable to the interstate pipeline-seller's own production (mixed volume sales) do not qualify for first sale treatment under the attribution rule. Furthermore, such mixed volume sales are not considered first sales under the circumvention rule because they are regulated under the NGA. As a result, the rate for mixed-volume sales by interstate pipelines will continue to be regulated under the NGA.

Under the NGA pipeline production is priced on a cost of service basis or according to area or nationwide rates. However, the Commission is persuaded by several comments received from pipelines in connection with § 270.203 which maintain that it is inequitable for interstate pipelines to be denied the same pricing treatment accorded other producers of natural gas under the NGPA. These comments argue that restricting pipelines to lower prices under the NGA will discourage pipeline production efforts because costs such as severance taxes an royalties are based on the highest market price rather than on the cost of service or some other price and are thus on a parity with independent producers' costs. The comments argue that "parity of costs" requires "parity of price" and that the Commission should continue the parity of treatment between pipelines and independent producers which the Federal Power Commission (FPC) originated under the NGA.[1]

The Commission agrees that there is a need for parity of treatment between pipelines and other producer where pipelines and producers have been treated similarly in the past with respect to particular natural gas supplies. The FPC established such a policy in Opinion No. 568 "in order to provide a regulatory climate conducive to an aggressive pipeline exploration program." [2] In that opinion, the FPC decided to value gas produced by pipelines or their affiliates from leases acquired after October 7, 1969 and taken into the pipeline's own system, by reference to the just and reasonable area rates established for sales by independent producers, absent a showing of special circumstances by the pipeline. In Opinion No. 699–H, the FPC decided that "natural gas which comes within one of the classes enumerated in the new § 2.56(a)(2) shall be entitled to the rate set forth in that section regardless of the date the lease was acquired by a pipeline or pipeline's affiliate." [3] The FPC continued this policy in Opinion 770–A stating, "We have determined that it is in the public interest for the national rate structure to include pipeline production, and the rates for such production should be determined by date of well commencement, rather than by the date on which the subject lease was acquired." [4] In Opinion No. 749–C[5] the FPC reaffirmed its decision that gas from pre-1973 wells on pre-October 8, 1969 leases would continue to be priced on a cost of service basis. Therefore, production from post-October 7, 1969 leases and production from post 1972 wells on pre-October 8, 1969 leases currently receives the applicable area or nationwide rates accorded independent producers unless a showing of special circumstances is made. Production from pre-1973 wells on pre-October 8, 1969 leases is valued on a cost of service basis.

The Commission is proposing to amend § 2.66 and to add a new § 2.66a to its regulations under the NGA. In general, this new section would permit interstate pipelines and affiliates, which would have been allowed the area or nationwide rates under the NGA, to determine the cost component associated with their own production by reference to NGPA maximum lawful prices for NGA ratemaking purposes if the production does not qualify for first sale treatment under the NGPA. All other pipeline production would continue to receive the same pricing treatment accorded it in the past.

II. Summary of Amendments

The Commission believes that it is appropriate to continue a policy of parity of treatment for pipeline and affiliate production which is priced at the applicable area or nationwide rate. Accordingly, the Commission is proposing to amend § 2.66 of its regulations and to add a new § 2.66a to allow pipelines and their affiliates to value their production, for purposes of rate proceedings under the NGA, at the applicable NGPA Title I prices if such production would otherwise have been valued at the applicable area or nationwide rates.

In order to implement this proposed pricing policy the Commission is also proposing to amend § 154.38(d)(4) to allow pipelines to include in their PGA clauses production which qualifies for rate treatment by reference to the NGPA prices.

However, the Commission does not propose to extend such parity of treatment to pipeline production which, under the NGA, has not been treated on the same basis as production by independent producers. Much pipeline production, particularly old production, has been priced on a cost of service basis. This treatement provides for recovery of dry hole expenses and assures recovery of the costs of production, including a return, income tax, and depreciation component. This treatment is significantly different from the methods which the Commission has used to establish independent producer rates. These and other differences are emphasized in Opinion No. 568. Given the significant and continuing additional guarantees of cost recovery provided to interstate pipelines by cost of service treatment, we propose that NGPA rates not be extended to pipeline production which has in the past been valued on a cost of service basis. This policy complies with the FPC's decision, following the issuance of Opinion No. 568, that cost of service treatment rather than area and nationwide producer rates should continue to be applied generally to old pipeline production.[6]

Accordingly, we propose that under § 2.66a production from pre-1972 wells on leases acquired on or before October 7, 1969 continue to be priced on a cost of service basis. Production from post-October 7, 1969 properties and post-1972 wells, previously priced with reference to the area and nationwide rates, would be priced with reference to maximum

[1] See Opinion No. 568, *Pipeline Production Area Rate Proceeding* (Phase I), 42 F.P.C. 738, *as amended*, 42 F.P.C. 1089 (1972), affirmed, *City of Chicago* v. *F.P.C.*, 147 U.S. App. D.C. 312, 458 F. 2d 731 (D.C. Cir. 1971), *Cert. denied*, 405 U.S. 1074 (1972).

[2] *Pipeline Production Area Rate Proceeding (Phase I), Supra*, at p. 745.

[3] See, Opinion No. 699–H, —— F.P.C. ——, Mimeo p. 47.

[4] See, Opinion No. 770–A, —— F.P.C. ——, Mimeo p. 147.

[5] See, Opinion No. 749–C, —— F.P.C. ——, Mimeo p. 29.

[6] See, Opinion No. 749–C, —— F.P.C. ——, mimeo p. 29.

lawful prices in Title I of the NGPA unless the production had been accorded special treatment by the Commission under Opinion Nos. 568, 699–H, and 770–A following a showing of special circumstances by the pipeline that the otherwise applicable area or nationwide rate was insufficient. Production which received cost of service treatment based on a showing of special circumstances would continue to receive cost of service treatment. Where the Commission has permitted higher rates after a showing of special circumstances, all or portions of the costs related to the acquisition of leases, drilling of exploratory and developmental wells and other necessary attendant operations, such as the holding of undeveloped properties for future use, have been paid for by the pipeline's customers. Therefore, NGPA Title I rates should not be permitted for such production.

Under proposed § 2.66a a pipeline would be prohibited from seeking relief from the otherwise applicable rate via the special circumstances route, for production from leases acquired subsequent to the effective date of this proposed amendment and other production to which § 2.66a applies.[7] However, a pipeline would be permitted to make use of the special relief provisions in the Commission's regulations under the NGPA in order to seek relief from the effects of § 2.66a for production which is priced on the same basis as independent producers.

It is appropriate that this Notice of Proposed Rulemaking delineate the interrelationship between our treatment of cost of service pipeline production and our treatment of affiliate sales under § 270.203(c). Under § 270.203(c) a sale by an affiliate of a pipeline or distributor is a first sale if the affiliate company is not itself a pipeline or distributor and the Commission does not specifically determine otherwise.

The Commission recognizes that under § 270.203 a pipeline could attempt to obtain first sale treatment for its cost of service pipeline production by transferring that production to an affiliate and then entering into a contract with the affiliate to purchase the transferred cost of service production. This would have the effect of qualifying the sale of that production as a first sale under § 270.203(c). However, the Commission cautions that any such transfer of an interstate pipeline's production would require that the interstate pipeline file an abandonment application. Opinion No. 628, *Panhandle Eastern Pipe Line Company, et al.*, Docket Nos. CP71–237, *et al.*, 48 F.P.C. 518 (1972). Moreover, since the gas so transferred is "committed or dedicated to interstate commerce" within the meaning of section 2(18) of the NGPA, the affiliate would be required to file a certificate application in order to make the sale to the interstate pipeline.

The Commission advises that, should it adopt the proposed rule, it would scrutinize closely abandonment and certificate applications involving pipeline production. Although the Commission recognizes that valid reasons may be advanced in support of abandonment and certificate applications involving pipeline production, it would attempt to assure itself in *all* cases that the transfer of pipeline production to an affiliate would not result in pricing pipeline production differently than it would have been priced had the pipeline retained ownership of such production. [8]

In order to implement this proposed policy in those cases where favorable action on abandonment and certificate applications would otherwise be appropriate, the Commission will consider these applications and exercise its authority so as to assure continued cost of service treatment for pre 1973 wells on pre–1969 leases except in extraordinary circumstances. The Commission retains authority over cost of service gas under the express provisions of section 601(a)(1)(B) of the NGPA. Section 601(a)(1)(B) of the NGPA provides that the Commission's NGA jurisdiction over this gas is unaffected by passage of the NGPA, unless a final determination is received that the natural gas from these old wells is high-cost natural gas (as defined in section 107(c) (1), (2), (3), or (4)), or new natural gas (as defined in section 102(c)).[9] The treatment proposed for certificate and abandonment applications would provide consistent and symmetrical pricing policies for pipeline production, irrespective of whether that production were sold by the pipeline as part of its system supply, or were sold separately by an affiliate. This treatment would also assure that the pipeline's decision to produce its own gas or to transfer that production to an affiliate would be made on the basis of factors other than price.

III. Public Procedure

The Commission intends to issue § 2.66a as a substantive rule, rather than as a statement of policy, after receiving and evaluating comments on this proposed rulemaking. Interested persons are invited to submit written comments, data, views or arguments with respect to the provisions of § 2.66a. All submissions should reference Docket No. RM80–6. An original and 14 copies should be filed with the Secretary of the Commission. All comments received by January 14, 1980 will be considered by the Commission prior to issuing final regulations. All written submissions will be placed in the Commission's public files and will be available for public inspection in the Commission's Office of Public Information, 825 North Capitol Street, N.E., Washington, D.C. 20426.

A public hearing on this proposed rulemaking will be held in Washington, D.C. on Monday, January 7, 1980. The hearing will be held at the Federal Energy Regulatory Commission, Hearing Room A, 825 North Capitol Street, NE., Washington, D.C., and will begin at 10:00 a.m., local time.

Requests to participate in the hearing should be directed to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washingtn, D.C. 20426 and should be made no later than December 28, 1979. Requests should reference Docket No. RM80–6 and should indicate the name of the party who will be making the presentation, a phone number at which that party may be contacted, and the amount of time requested for the presentation. Persons participating in the public hearing should, if possible, bring 25 copies of their testimony to the hearing. A list of the participants in the hearing will be available in the Commission's Office of Public Information prior to the hearing and will be available in the hearing room on the morning of the hearing.

The hearing will not be of a judicial or evidentiary nature, and there will be no cross-examination of persons presenting statements. The presentations will be made before a panel whose members will be designated by the Chairman. Members participating on the panel may ask questions. If time permits, they may also ask such additional relevant questions as are submitted to them by

[7] We note that Columbia Gas Transmission Corporation (Docket No. RP75–106) has a proposal before the Commission under § 2.66(a)(4) which has been the subject of litigated proceedings; the proposal will be disposed of by the Commission on the basis of the record. Moreover, we note that Michigan-Wisconsin Pipeline Company received cost of service treatment under § 2.66(a)(4) for the period, November 1, 1973–October 31, 1977, and that the Commission in approving settlements covering rates for subsequent periods has expressly disavowed any policy determination regarding the pricing approach incorporated in the settlements. This matter will be the subject of a separate order.

[8] The extent to which the Commission can obtain these assurances for new pipeline production which has been priced on a cost-of-service basis, based upon a showing of "special circumstances" under section 2.66 of our regulations, is not clear.

[9] By definition, natural gas from these old wells cannot qualify for the section 103 price.

participants. Other procedural rules relating to the presentations will be announced at the time the proceedings commence. A transcript of the hearing will be available in the public file for this proceeding in the Commission's Office of Public Information.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301 *et seq.;* Natural Gas Act, as amended, 15 U.S.C. 717 *et seq.;* Department of Energy Organization Act, 42 U.S.C. 7107 *et seq.;* E.O. 12009, 42 FR 46267)

In consideration of the foregoing, the Commission is proposing to amend Part 2 of Subchapter A, Part 154 of Subchapter E, and Part 270 of Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

PART 2—GENERAL POLICY AND INTERPRETATIONS

§ 2.66 [Amended]

1. Part 2 is amended in the table of contents and in the text of the regulations by inserting in the title of § 2.66 the phrase "which is not subject to § 2.66a." after the word "affiliates" and is further revised by adding at the end of the text of § 2.66 the following new paragraph:

* * * * *

(e) *Inapplicability to certain gas produced on or after December 1, 1978.* This section does not apply to natural gas to which § 2.66a is applicable.

* * * * *

2. Part 2 is further amended in the table of contents and in the text of the regulations by adding after § 2.66 the following new section:

§ 2.66a Pricing of certain gas produced on or after December 1, 1978, by pipelines and pipeline affiliates.

(a) *Applicability.* This section applies to natural gas which is produced by an interstate pipeline or an affiliate of such pipeline and which is delivered to such pipeline, other than in a first sale, if:

(1) Such gas is produced on or after November 15, 1979; or

(2) Such gas is produced on or after December 1, 1978, and before November 15, 1979, and is specifically made subject by Commission order to the outcome of the proceeding in which this section has been promulgated.

(b) *Policy Statement.* As a matter of policy in any pipeline rate proceeding (including a PGA proceeding):

(1) *NGPA rate treatment—* (i) *General rule.* Subject to paragraph (b)(1) (ii) and (iii) of this section, natural gas produced by an interstate pipeline (or affiliate thereof) to which this section applies shall be priced for ratemaking purposes at the maximum lawful price which would have been applicable under Subchapter H had the gas been delivered to the pipeline in a first sale, if the production is from a lease owned by such pipeline or affiliate and if:

(A) The lease was acquired after October 7, 1969; or

(B) The natural gas is:

(*1*) Produced form a well commenced on or after January 1, 1973, or

(*2*) Produced through a well commenced prior to such date as a result of a completion operation commenced on or after such date into a different, formerly nonproductive reservoir; or

(C) The Commission, prior to December 1, 1978, had granted area or nationwide rate treatment for such gas in lieu of otherwise applicable cost of service treatment.

(ii) *Conditions.* (A) Natural gas to which this subparagraph applies may be priced at a rate prescribed under Subparts B, C, D, G, H, or J of Part 271 and under Subpart K, only if the pipeline (or affiliate thereof) complies with the requirements of section 601(b)(1)(E) of the NGPA, § 154.94 and Subchapter H which would have been applicable had the natural gas been delivered pursuant to a first sale.

(B) Treatment as provided under paragraph (b)(1)(i)(C) of this section shall continue to be accorded only during the period provided for such area or nationawide rate treatment in applicable Commission orders and shall be subject to the conditions specified in those orders.

(iii) *Exceptions.* This subparagraph does not apply to natural gas produced from leases acquired before November 15, 1979, which have ever been granted cost of service treatment pursuant to § 2.66(a)(4) (relating to special circumstances).

(2) *Cost of service rate treatment.* Natural gas to which this section applies, but which is not covered by paragraph (b)(1) of this section, shall be priced for ratemaking purposes on a cost of service basis.

(c) *Definitions.* For purposes of this section:

(1) *NGPA definitions.* The terms "interstate pipeline", "affiliate", and "first sale" have the same meaning as they have for purposes of Subchapter H.

(2) *Lease.* The term "lease" includes any fee interest in producing property or any working interest in production.

PART 154—RATE SCHEDULES AND TARIFFS

§ 154.38 [Amended]

3. Part 154 is amended by deleting the first sentence in footnote 1 to § 154.38(d)(4) and substituting the following sentence in lieu thereof:

[1] For the purposes of this paragraph, purchased gas costs represent the cost of well head purchases, field line purchases, plant outlet purchases, transmission line purchases, and pipeline or affiliate production that qualifies for an is allowed an area or nationwide rate under § 2.66 of this chapter or a maximum lawful price specified in Title I of the NGPA under § 2.66a.* * *

PART 270—RULES GENERALLY APPLICABLE TO REGULATED SALES OF NATURAL GAS

4. Part 270 is amended in § 270.203 by adding a new paragraph (f) to read as follows:

§ 270.203 Pipeline distributor and affiliate production.

* * * * *

(f) *Cross reference.* In treatment of interstate pipeline and affiliate production delivered to a pipeline other than in a first sale, see Part 266 and Part 266a of this chapter.

[FR doc. 79-35670 Filed 11-19-79; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

21 CFR Part 1000

[Docket No. 75N-0340]

Procedures To Minimize Medical X-Ray Exposure of the Human Embryo and Fetus; Recommendations for Medical Radiation Exposure of Women of Childbearing Potential

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: In an effort to reduce unnecessary radiation exposure to the entire population, the Food and Drug Administration (FDA) is proposing recommendations intended to minimize the irradiation of the human embryo and fetus from diagnostic x-ray procedures. X radiation and other types of ionizing radiations are associated with a variety of harmful effects in the human embryo and fetus. Some of them may occur as a result of diagnostic x-ray procedures. The agency is proposing to establish recommendations for attending physicians, consulting radiologists, x-ray equipment operators, and patients that:

(1) emphasize the importance of ascertaining whether the patient is or may be pregnant prior to referral for examinations that may include the uterus in or near the primary x-ray beam; (2) suggest alternatives for physicians in managing the patient who is or may be pregnant at the time of the contemplated x-ray referral request; and (3) suggest methods for reducing medical x-ray exposure of fetuses throughout gestation.

DATE: Comments by March 20, 1980.

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joseph Wang, Bureau of Radiological Health (HFX–460), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3426.

SUPPLEMENTARY INFORMATION: Under the Public Health Service Act, as amended by the Radiation Control for Health and Safety Act of 1968 (Pub. L. 90–602, 42 U.S.C. 263b et seq.), the Bureau of Radiological Health of the Food and Drug Administration conducts and supports research, training, and operational activities to minimize unnecessary exposure of the public to electronic product radiation. In carrying out this purpose, the agency is authorized to make such recommendations relating to the control of electronic product radiation as it considers appropriate. Accordingly, FDA proposes to add new § 1000.51 (21 CFR 1000.51) to provide recommended procedures for minimizing medical x-ray exposure of the human embryo and fetus.

Experimental studies with animals and some limited human epidemiological studies and case reports have indicated that x-ray exposure presents a hazard to the unborn child. The magnitude and kinds of possible effects of radiation exposure depend upon the amount and type of ionizing radiation received and the stage of fetal development when exposure occurs.

The scientific literature supports the conclusion that at no time during gestation can the developing embryo or fetus be irradiated withut incurring some risk of biological effect. The first trimester of pregnancy, especially the first 2 weeks after conception, carries the highest risk of abortion induced by radiation. Radiation exposure of the fetus during all stages of pregnancy has been associated with an increased incidence of leukemia and other childhood cancers, but there is some suggestion that the carcinogenic effect is greatest for exposure during the first trimester. Additionally, during the second and third trimesters, fetal irradiation can be associated with developmental effects manifested by physiological and behavioral changes, some of which may not become apparent until later in life.

Because both the maternal and fetal gonads may be exposed, abdominal irradiation during any stage of pregnancy may also produce alterations in genetic material in at least two individuals. Furthermore, abdominal irradiation of a prospective mother prior to conception may result in genetic changes that could be transmitted to her offspring; for example, some controversial evidence has suggested an increased risk of mongolism and cancer in children born to mothers receiving x-ray examinations prior to conception.

It has been estimated that, in 1970 (the last year that x-ray utilization data are available for the United States), 805,000 pregnant women in the United States (23 percent of all women having live born infants that year) received x-ray examinations of all types (Ref. *1*). Of these, an estimated 298,000 received abdominal area x-rays that directly irradiated the fetus. Nearly 22,000 fetuses were irradiated during the first trimester, and it is estimated that 7,000 may have been exposed in the first month of pregnancy.

Calculations based on cancer risk data from the Oxford Survey of Childhood Cancers (Ref. *2*), imply that each annual use of prenatal abdominal examinations at these rates could result in approximately 19 extra cases of childhood cancer each year for the next 15 years. Therefore, the estimated number of cancers due to irradiation at any time during pregnancy would be 285 cases per year at equilibrium in children under 15 years of age. Of these 285, perhaps 22 would be due to irradiation during the first trimester. The additional cancer cases would only be observed at equilibrium (15 years after irradiation of the population begins) and not in the first year. Conversely, it would take 15 years to reduce the number of extra cancers to zero if all examination during pregnancy were abruptly eliminated. Stated in individual terms, there is a cumulative probability of about 1 in 1,000 that a child who was irradiated in utero by an abdominal X-ray examination of the mother, consisting of 2 to 3 radiographs, will develop cancer during the first 15 years of life, based upon the Oxford Survey data. For individuals who receive larger doses (as might be the case in fluoroscopy), the estimated risk would be increased proportionately, assuming a linear dose-effect relationship. The risk due to radiation exposure cannot be decreased to zero, however, because X-ray examinations required for the clinical management of the patient cannot be eliminated.

In addition to an increased risk of childhood cancer, prenatal irradiation may be associated with subtle mental, physiological, and genetic changes that are difficult to detect and measure. It is important to note that environmental stresses may modify the biological response to radiation. For example, the human embryo and fetus have been shown to be particularly susceptible to a variety of chemicals, drugs, viruses, and other physical agents. One or more of these agents could influence the effects of irradiation, thus altering the foregoing risk estimates.

The agency believes however, the risks of harmful effects that may occur as a result of diagnostic X-ray procedures are small in camparison to many risks in everyday life that are commonly ignored. Thus, exposure risks should not be a deterrent to X-ray examinations judged necessary for the medical care of women who are or could be pregnant. Nevertheless, these risks are finite and actions can be taken to mitigate them within the bounds of sound medical care.

An advance notice of proposed rulemaking concerning medical radiation exposure of women of childbearing potential was published in the **Federal Register** of December 15, 1975 (40 FR 58151). In response to this notice, 76 comment letters were received from physicians, hospital administrators, radiological physicists, technologists, and private citizens. From questions that appeared in the **Federal Register** notice, a summary of the comments and the agency's conclusions are as follows:

1. Is it advisable to schedule nonemergency radiological examinations of the abdomen of women of childbearing age only during the early part of the menstrual cycle? If such scheduling is appropriate, should this be done only when the examination could be deferred until term if a pregnancy is observed or suspected at the time the examination is scheduled to occur?

The majority of comments favored scheduling of nonemergency abdominal X-ray examinations during the early part of the menstrual cycle. Several comments, however, opposed elective scheduling on the ground that it is impractical. Several persons noted that there is no "safe" period during which a radiological examination could be undertaken. If a patient is to be examined even though she is found to be

pregnant, scheduling serves no useful purpose and may even be counterproductive. Furthermore, if an examination can be postponed to the end of a pregnancy, there is the question of the need for the examination, even if the patient is not pregnant.

The agency believes that detailed guides for the use of elective scheduling may not always be appropriate. Thus, the proposal recommends that emphasis be placed primarily on ascertaining the pregnancy status of women with childbearing potential prior to their referral for abdominal X-ray examinations so that physicians can give due conisderation to possible pregnancy in making their referral decisions. In this regard, the agency advocates that attending physicians use X-ray consultation forms that provide information on the patients' pregnancy status.

2. Is it feasible to modify radiological examinations of known or possibly pregnant women, e.g., fewer views and different technique factors, to reduce exposure of the embryo or fetus? If so, under what circumstances? To what extent does this result in an unacceptable loss of diagnostic information?

With regard to the feasibility of modifying radiological examinations of known or possibly pregnant women, most comments said that it was possible to modify the number of films and projections to provide protection of the fetus. Comments also stated that modifications should be determined in consultation with the radiologist to achieve acceptable diagnostic information.

The agency encourages consultation between the attending physician and the radiologist to determine any examination modifications that may be made if the referring physician suspects a pregnancy or knows that the patient is pregnant. However, no generalizations can be made regarding examination modifications because the techniques used in an examination will vary according to each patient's need.

3. Is it advisable to recommend to institutions that the physician ordering the examination indicate on the referral slip whether or not the patient is or could be pregnant?

Most comments agreed that it is advisable for the attending physician to indicate on the referral slip whether or not the patient is or could be pregnant. Although several respondents noted that patients within the childbearing age group are usually queried as to their pregnancy status, a number of radiologists stated that pertinent clinical information is often lacking on the referral slips.

The agency believes that X-ray consultation forms, when fully completed, can be an effective tool in assuring that the referring physicians have tried to ascertain whether their patients are or could be pregnant. Furthermore, the agency believes that patients should be encouraged to inform the attending physicians and X-ray department personnel that they are or may be pregnant.

4. Is it advisable to recommend to institutions that the physician ordering the examination indicate on the referral slip whether he or she would be satisfied with a limited study, i.e., modified from the routine manner of performance, on a patient known or suspected to be pregnant?

Several comments objected to the agency establishing recommendations that the physician ordering the examination indicate whether or not a limited study would be satisfactory. It was, however, considered good medical practice to encourage consultation, between the radiologist and the referring physician so that appropriate diagnostic information could be provided to contribute to the patient's care. The proposed recommendation, therefore, encourages consultation between the radiologist and referring physician to determine on an individual basis whether or not limited studies are warranted.

5. For which abdominal X-ray examinations could fetal shielding be employed without compromising the diagnostic value of the radiograph?

Several comments provided examples of the types of abdominal examinations that could be performed using fetal shielding. Other comments claimed that any use of fetal shielding during abdominal examinations would only decrease diagnostic accuracy. The agency believes that the determination of whether or not to use fetal shielding, once the examination has been deemed immediately necessary, requires judgment by the radiologist on a case-by-case basis.

6. To what extent do pelvimetry examinations affect decisionmaking in the management of delivery?

Most comments stated that pelvimetry examinations have negligible influence in the management of delivery. Others declared that they are useful when abnormalities of the birth canal or fetal position are suspected. Several comments noted that the use of pelvimetry is declining. The efficacy of this procedure was questioned in a 1975 FDA study that extracted information on the indications for and benefits of pelvimetry as the examination was performed in selected hospitals (Ref. *3*). Campbell (Ref. *4*) and Joyce et al. (Ref. *5*) also studied the use of pelvimetry. Campbell's study cast significant doubt on the usefulness of pelvimetry, and Joyce et al. stated that routine pelvimetry should be performed only in the following cases: (a) antenatally, for singleton breech presentations in primigravid and multigravid patients; (b) postpartum, after a caesarean section, difficult forceps delivery, or perinatal death, when vaginal delivery might be considered in a subsequent pregnancy; (c) before pregnancy, after the healing of a fractured pelvis or at some suitable point in the management of other relevant orthopedic disorders.

A pelvimetry panel, composed of members of the American College of Obstetricians and Gynecologists and the American College of Radiology, with the assistance of the Bureau of Radiological Health, has considered the available evidence concerning the usefulness of the pelvimetry examination and is in the process of drafting recommendations regarding its use. When they are completed, the recommendations will be tested in clinical practice and further evaluated.

7. How much radiation exposure is received by the embryo or fetus from various diagnostic nuclear medicine procedures?

Several comments provided data on the radiation exposure received by the embryo or fetus from various diagnostic nuclear medicine procedures. Others noted that the exposure varies greatly with the radiopharmaceutical involved and with the age of the fetus.

It is usually possible, however, to calculate the absorbed radiation dose to the embryo or fetus from diagnostic nuclear medicine procedures using currently available techniques and dose models. These calculations and a determination of the necessity of the procedure need to be made on an individual case basis if nuclear medicine procedures are being considered for a pregnant or potentially pregnant patient.

8. With what frequency are nuclear medicine diagnostic procedures performed on women of childbearing age?

The frequency with which nuclear medicine diagnostic procedures are performed on women of childbearing age was reported in the comments to range from 10 percent to "quite common."

A data collection system, called Medically Oriented Data System (MODS), operated by the Medical Data Systems Staff of the Office of the Director, Bureau of Medical Devices,

Food and Drug Administration, provides frequency data as a service to FDA operating programs. Data from MODS now show that approximately 58 percent of persons undergoing nuclear medicine procedures in the United State are women and, of these, 29 percent are of childbearing age.

9. How useful is nuclear medicine placental scanning in the medical management of pregnant women?

The unanimous response to this question was that ultrasound has replaced nuclear medicine for placental imaging.

It is generally agreed that the biological effects to the fetus resulting from nuclear medicine procedures are not well known. Until additional information becomes available on low-dose effects of such procedures, the agency believes that recommendations on this subject should be limited to ways to minimize medical x-ray exposure of the human embryo and fetus.

Following the analysis of comments on the December 15, 1975 notice, a report entitled "Clinical Methods of Avoiding Medical X-Ray Exposure of the Human Embryo and Fetus: A Technical Overview" was prepared by the Bureau of Radiological Health, Food and Drug Administration (Ref. *1*). The report was reviewed by the Bureau's Medical Radiation Advisory Committee and other interested and knowledgeable parties who were invited to comment on its contents.

The recommendations proposed here represent the concepts discussed in the report as modified in reponse to reviewer comments. A copy of the Technical Overview and other pertinent background data on which the agency relies in proposing these recommendations are on file with the Hearing Clerk, Food and Drug Administration.

The Bureau has also discussed significant elements of the proposed recommendations with the American College of Obstetricians and Gynecologists (ACOG), the American College of Radiology (ACR), and the National Council on Radiation Protection and Measurements (NCRP), which have all issued their own policy statements or recommentations. Although there are some variations depending on the perspective of the issuing organization, there do not seem to be any important conflicts between the FDA proposed recommendations and the recommendations of these other groups. The ACOG states that there is no measurable advantage to using scheduling as a general procedure (Ref. *6*); the ACR discourages elective scheduling as a general procedure (Ref. *7*); and the NCRP suggests use of a decision tree for scheduling or postponing elective examinations of the abdomen or pelvis of women of childbearing capacity (Ref. *8*).

Discussion

FDA shares responsibility (e.g., with radiologists), to minimize radiation exposure of the population from medical radiologic examinations, consistent with deriving needed diagnostic information. Although the risk of harm to an individual from these examinations is very small, the public health impact of this risk when applied to large populations can be significant. For any one woman, the risk of injury to her unborn child due to an abdominal area x-ray examination is too small to deter a necessary medical examination. ("Abdominal area examination" means any examination in which the uterus is in or adjacent to the primary x-ray beam, e.g., examinations of the hip, pelvis, lower abdomen, lower back.) It should be noted that nonabdominal examinations, when conducted with appropriate technique factors, collimation, and abdominal shielding, contribute only a negligible exposure to the embryo or fetus. Nonabdominal examinations are, therefore, not included in the proposed recommendations.

The proposed recommendations and rationale for them are as follows:

1. Proposed § 1000.51(b)(1) states that the attending physician should ascertain the likelihood of pregnancy when considering nonemergency abdominal area x-ray examinations for a woman who could be pregnant at the time of the consultation request. X-rays and other types of ionizing radiation have the potential to cause biological effects in the human embryo and fetus. Because of these effects on the human embryo and fetus, every effort to avoid unnecessary x-ray exposure is encouraged. In some cases this exposure might be avoided if the physician is aware that the patient is or might be pregnant.

2. Proposed § 1000.51(b)(2) recommends that X-ray consultation forms be used to provide a method to heighten the attending physician's awareness of the need to determine the pregnancy status of the patient prior to requesting an abdominal area X-ray procedure. In the absence of a notification by the attending practitioner, the X-ray personnel should ask the patient if she might be pregnant prior to conducting an abdominal area examination.

This recommendation is based on studies that show that women are often selected for abdominal area X-ray examinations without being questioned as to their pregnancy status (Refs. *9* and *10*). Annotated consultation requests have been mentioned as one method of assuring that attending physicians determine whether patients who may be pregnant at the time of the abdominal area examination request are, in fact, pregnant. An annotated consultation request should provide, at a minimum, appropriate space for the attending physician to indicate whether the patient is, is probably not, or may be pregnant. Some institutions may also wish to include information on whether or not the examination should be performed irrespective of pregnancy status, whether the physician would like to consult the radiology department about the possibility of modifying the requested examination, or whether the examination could be postponed for a time. Space may also be provided on the annotated consultation request for the attending physician to note the date of the patient's last menstrual period. The consultation request can be a permanent record of the consideration of pregnancy if it is appropriately filed and can be retrieved.

As an alternative to recording pregnancy information on the consultation request, it has been suggested that the attending physician record this information on the patient's chart. This procedure preserves the privacy of the patient in that the consultation request may reveal the possibility of pregnancy to hospital staff who are not involved in the patient's immediate medical care. However, recording pregnancy information on the patient's chart may not be sufficient to alert the radiologic technologist who performs the examination to seek authorization to use special measures to reduce the X-ray exposure of the embryo or fetus, e.g., a grid with lower than usual ratio, fetal shielding, or fewer than the normal number of views.

3. Proposed § 1000.51(b)(3) recommends that, in consultation with the radiologist and based upon the patient's individual needs, any of the following alternative courses of action might be appropriate for the attending physician when it is discovered that the patient being considered for an abdominal area X-ray examination is or is likely to be pregnant.

(a) The attending physician may decide to cancel a contemplated abdominal area examination once aware that the woman is or may be pregnant. The potential health benefit to be gained from a contemplated examination can be variable, depending

upon the attending physician's degree of conviction of the necessity for the examination. If the attending physician is convinced that the X-ray procedure is medically necessary, then the patient's pregnancy should not deter the examination. If there is less certainty of the necessity for the examination, the attending physician may not wish to proceed with the examination, once aware that the woman is or might be pregnant.

(b) The attending physician may request a modified or limited examination which would, as a minimum, provide the necessary clinical information with the least possible radiation exposure. Under certain circumstances, an abdominal area X-ray examination involving fewer exposures or more restricted views than usual may be used by the radiologist to provide the necessary clinical information with less X-ray exposure. Whether modification of a routine X-ray procedure is in the best interests of the mother's and child's health must be decided on an individual basis. The attending physician is, therefore, encouraged to consult with the radiologist.

Ultrasound procedures may replace or supplement certain X-ray examinations. However, experimental and epidemiological studies to date have not ruled out the possibility of biological risk from ultrasound during pregnancy. Consequently, in the absence of additional information, ultrasound procedures should not be viewed as an entirely risk-free alternative to X-ray procedures. Attending physicians and radiologists are encouraged to discuss the relative clinical value of ultrasound procedures under specific clinical circumstances.

(c) The attending physician may request the X-ray examination regardless of pregnancy status. This option is a logical alternative in situations when the woman's medical circumstances dictate an immediate need for an examination, regardless of whether she is pregnant.

(d) In the case of a known pregnancy, the attending physician may assess the possibility of deferring the examination until later in pregnancy or until term. As discussed in the rationale for proposed § 1000.51(b)(1), the embryo or fetus is at risk of different types of radiation-induced injury throughout gestation. However, there is evidence that the carcinogenic effect is greatest when irradiation occurs during the first timester. This option recognizes that there are some abdominal area examinations which, although necessary, may be deferred for a time long enough into pregnancy so that the risk to the fetus or embryo is appreciably reduced. In some cases the examination might even be deferred until term, eliminating all X-ray exposure risk to the embryo or fetus.

(e) In the case of a possible but unconfirmed pregnancy, the attending physician may defer an examination that is not needed immediately until pregnancy is ruled out, until later in pregnancy, or until term (see option (d)).

Sometimes called elective scheduling, this option involves scheduling nonemergency abdominal X-ray examinations of women of childbearing potential during the early part of the menstrual cycle (usually the first 10 to 14 days) to minimize the possibility of irradiating a newly fertilized egg. The examinations suitable for this approach are those few that could safely be postponed if the woman subsequently were found to be pregnant. This course of action offers guidance in the management of those rare cases in which (1) the woman's pregnancy status is undetermined, (2) she needs an abdominal X-ray examination, and (3) the examination could be postponed until later in the pregnancy when the fetus is less radiosensitive if she later proved to be pregnant. It must be stressed that this option should be considered only in the unusual simultaneous occurrence of these three circumstances. Furthermore, examinations should be scheduled as soon as possible after the expected onset of menses. Because the date of ovulation varies considerably among women, scheduling an examination as early as possible after the onset of menses minimizes the possibility that a woman will become pregnant prior to the examination.

Some institutions and individual practitioners have applied elective scheduling to all women of childbearing potential without discriminating between examinations that could not or could be postponed to a later period in pregnancy or after delivery. This practice could present the practitioner with a dilemma—if the woman is pregnant, either forego an examination essential to the management of the woman's condition or risk irradiating the embryo during organogenesis when it is especially vulnerable to radiation-induced damage to developing organ systems. Because of the hazards of this situation, the International Commission on Radiological Protection and the National Council on Radiation Protection and Measurements stress that the few examinations for which elective scheduling can be used are those that can be safely deferred until the latter half of pregnancy or until term if the patient is found to be pregnant at the time of her scheduled visit to the X-ray facility.

There are other problems associated with elective scheduling. The examination date is scheduled based upon the woman's last period. If the woman has irregular periods or is reluctant to duscuss them for whatever reason, scheduling an examination becomes difficult. Once scheduled, the woman may jeopardize her own health by not returning for the examination. Obviously, elective scheduling is not a comprehensive approach to the problems of irradiation of the fetus, but, in the restricted circumstances to which it applies, elective scheduling is an alternative worthy of consideration.

4. Proposed § 1000.51(b)(4) recommends that a patient who is or thinks she might be pregnant should alert her attending physician as well as x-ray facility personnel prior to the performance of an x-ray examination. At the same time, medical personnel should impress upon their patients the importance of volunteering this information.

This recommendation is based upon the principle that the patient has the right to participate in decisions regarding her medical care. Commensurate with that right is the patient's responsibility to communicate important information to health care personnel, including her pregnancy status, to help assure optimum medical management. The patient should also inform here physician about any recent similar x-ray examinations. A new examination may not be needed if a recent one can provide the necessary diagnostic information. Finally, if she knows that she is scheduled to receive an x-ray examination of the abdominal area, the patient should postpone a planned pregnancy until after the examination.

The following information has been placed on file in the office of the Hearing Clerk (address above) and may be seen by interested persons from 9 a.m. to 4 p.m. Monday through Friday.

References

1. U.S. Department of Health, Education, and Welfare, Public Health Service, Food and Drug Administration, Bureau of Radiological Health, "Clinical Methods of Avoiding Medical X-Ray Exposure of the Human Embryo and Fetus: A Technical Overview," November 1976.

2. Bithell, J. and Stewart, A., "Prenatal Irradiation and Childhood Malignancy: A Review of British Data from the Oxford Survey," *British Journal of Cancer*, 31:271–278, 1975.

3. Kelly, K. M., et al., "The Utilization and Efficacy of Pelvimetry," *The American Journal of Roentgenology*, 125:1, 66–74, September 1975.

4. Campbell, J. A., "X-ray Pelvimetry: Useful Procedure or Medical Nonsense," *Journal of the National Medical Association*, 68:514–520, November 1976.

5. Joyce, D. N., et al., "Role of Pelvimetry in Active Management of Labour," *British Medical Journal*, 4:505–507, November 1975.

6. The American College of Obstetricians and Gynecologists, Statement of Policy, Guidelines for Diagnostic X-Ray Examination of Fertile Women, May 1977.

7. Brown, R. F., Prepared Remarks for the October 20, 1976 American College of Radiology Press Conference, October 1976.

8. National Council on Radiation Protection and Measurements, Medical Radiation Exposure of Pregnant and Potentially Pregnant Women, NCRP Report No. 54, July 1977.

9. "X-Ray Safety," *The Lancet*, p. 905, April 19, 1975.

10. Asire, A. J., Murray, J. L., Linton, O. W., "Trends in Maternal X-Ray Exposure Practices in the San Francisco Bay Area," Unpublished Report Available from O.W. Linton, American College of Radiology, 6900 Wisconsin Ave., Chevy Chase, MD 20015.

Therefore, under the Public Health Service Act, as amended by the Radiation Control for Health and Safety Act of 1968 (sec. 356, 82 Stat. 1174–1176 (42 U.S.C. 263d)) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that 21 CFR Subchapter J be amended in Part 1000 by adding new § 1000.51 to Subpart C, to read as follows:

§ 1000.51 Recommendations for medical radiation exposure of women of childbearing potential.

X radiation is associated with a wide variety of adverse effects in the human embryo and fetus, some of which may occur as a result of diagnostic X-ray procedures. The Bureau of Radiological Health of the Food and Drug Administration, the American College of Radiology (ACR), the National Council on Radiation Protection and Measurements (NCRP), and the American College of Obstetricians and Gynecologists (ACOG) have all been concerned with protection of the human embyro and fetus from the effects arising from medical radiation exposure. The ACR, NCRP, and ACOG have issued policy statements that suggest methods to minimize medical X-ray exposure of the embyro and fetus. These recommendations are issued by FDA to provide clarification and additional guidance.

(a) Definitions: As used in this section, the following definitions apply:

(1) "Abdominal area examination" means an examination in which the uterus is in or adjacent to the direct X-ray beam (e.g., X-ray examinations of the hip, pelvis, lower abdomen, lower back, etc.).

(2) "Attending physician" means the physician who assumes primary responsibility for the patient's care or who requests an X-ray examination or consultation.

(3) "Nonemergency X-ray examination" means an X-ray examination not required for the immediate management of an acute medical condition.

(4) "Radiologist" means specifically a physician who specializes in the practice of radiology, but used here in a more general sense to include any practitioner who performs or interprets X-ray examinations as a normal component of his or her practice.

(b) Recommendations:

(1) The attending physician should ascertain the likelihood of pregnancy when considering a nonemergency X-ray examination that would place the uterus of a woman of childbearing potential in or adjacent to the direct X-ray beam.

(2) X-ray consultation forms should provide a method to heighten the attending physician's awareness of the need to determine the pregnancy status of a patient prior to requesting an abdominal area X-ray procedure. In the absence of a notification by the attending practitioner, the X-ray personnel should ascertain the pregnancy status of the patient prior to conducting an abdominal area examination.

(3) In consultation with the radiologist and based upon the individual patient's needs, the attending physician may:

(i) Cancel the examination once aware that the patient is or may be pregnant,

(ii) Request a limited examination when the diagnostic objectives permit the radiologist to modify the examination by using fewer or more restricted views for a woman who is or may be pregnant,

(iii) Request the full abdominal area X-ray examination regardless of pregnancy status when the patient's medical condition dictates immediate need,

(iv) In the case of a known pregnancy, assess the possibility of deferring the examination from early to later pregnancy or until term, or

(v) In the case of a possible but unconfirmed pregnancy, defer an examination that is not immediately needed until pregnancy is ruled out, until later in pregnancy, or until term (see paragraph (b)(3)(iv) of this section).

(4) A patient who is or thinks she might be pregnant should alert her attending physician as well as X-ray facility personnel before the performance of an X-ray examination. At the same time, medical personnel should impress upon their patients the importance of volunteering this information.

Interested persons may, on or before March 20, 1980, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 9, 1979.

Jere E. Goyan,

Commissioner of Food and Drugs.

[FR Doc. 79-35631 Filed 11-19-79; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. S108–1]

Electrical Standards; Extension of Comment Period and Corrections of Proposal

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

ACTION: Extension of comment period and corrections to notice of proposed rulemaking.

SUMMARY: This notice extends the time in which written comments and requests for a hearing may be submitted on the proposed revision of the electrical standards. It also includes a list of corrections to the electrical standards as they were published in the **Federal Register** (44 FR 55274) on September 25, 1979.

DATES: Written comments and hearing requests must be postmarked by December 31, 1979.

ADDRESS: All comments, objections and hearing requests should be sent to: Docket Officer; Docket S108–1; Rm. S–6212; U.S. Department of Labor; 200 Constitution Avenue, NW., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Mr. Sil Patti, Office of Electrical and

Electronic Engineering Safety Standards; OSHA; Rm. N3510; 200 Constitution Avenue, NW.; Washington, D.C. 20210 (202 523–7207).

SUPPLEMENTARY INFORMATION: When the proposed revisions of Subpart S of Part 1910 were published (44 FR 55274), OSHA established a 65-day comment period, extending through November 30, 1979. However, OSHA has since received written requests for extensions of the comment period. Similar requests for extension were made at the November 8, 1979, public meeting. OSHA has decided that in order to receive comments from as many interested persons as possible a 31-day extension will be given for written comments. Therefore, comments to the proposal and requests for a public hearing must be postmarked by December 31, 1979. They should be sent to the Docket Officer at the address previously given.

In addition to extending the comment period, this notice contains corrections to the proposed regulation as published in the **Federal Register** on September 25, 1979. A list of corrections is given below.

Authority: This document was prepared under the direction of Eula Bingham, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, Third Street and Constitution Avenue, NW., Washington, D.C. 20210.

This document is issued pursuant to Section 6(b) of the Occupational Safety and Health Act of 1970 (84 Stat. 1593; 29 U.S.C. 655) and 29 CFR Part 1911.

Signed at Washington, D.C., this 14th day of November 1979.

Eula Bingham,

Assistant Secretary of Labor.

In FR Doc. 79–29465 appearing at page 55274 of the **Federal Register** of September 25, 1979, the following changes should be made:

Section	FR page	Column and line	Correction
Table of Contents	55279	3rd, 29th from top	Add hyphen between "Safety" and "Related."
Table of Contents	55279	3rd, 31st from top	Add hyphen between "Safety" and "Related."
1910.301	55279	3rd, 12th from bottom	The word "workplace" should be "workplaces."
1910.301	55280	1st, 3rd, from top	The word "ar" should be "are."
1910.301	55280	1st, 6th from top	Add hyphen between "Safety" and "related."
1910.301	55280	1st, 9th from top	Add hyphen between "Safety" and "related."
1910.302	55280	1st, 11th from bottom	The word "Installation" should be "installations."
1910.302	55280	1st, 8th from bottom	The word "outdors" should be "outdoors."
1910.302	55280	2nd 27th from bottom	Add comma after "1972."
1910.302	55280	2nd, 24th from bottom	Add comma after "1972."
1910.302	55280	2nd, 21st from bottom	Add comma after "1972."
1910.302	55280	2nd, 19th from bottom	The symbol "§" should be "§§."
1910.303	55280	3rd, 22nd from bottom	The word "applicances" should be "appliances."
1910.303	55281	1st, 32nd from bottom	After the word "wood" add the word "or."
1910.303	55281	2nd, 14th from bottom	Delete the word "chapter" and put in its place "section."
1910.303	55281	3rd, 8th from bottom	The word "circut" should be "circuit."
1910.303—Table S–3	55282	2nd, 3rd from top	The word "Minimim" should be "Minimum."
1910.303	55282	2nd, 12th from top	The word "workpace" should be "workspace."
1910.304	55282	2nd, 11th from bottom	The word "personal" should be "personnel."
1910.304	55283	1st, 4th from bottom	The word "120 volts" should be "120-volt."
1910.304	55283	2nd, 31st from top	The word "suppy" should be "supply."
1910.304	55283	2nd, 43rd from top	Add a hyphen between "277" and "volt."
1910.304	55283	2nd, 47th from top	Add a hyphen between "120" and "volt."
1910.304	55283	3rd, 29th from bottom	The words "grouping-type" should be "grounding-type."
1910.304	55283	3rd, 26th from bottom	Delete the colon and insert a period.
1910.304	55283	3rd, 20th and 21st from bottom	The words "Support, Enclosures, and Equipment To Be Grounded" should be "Supports, enclosures, and equipment to be grounded."
1910.304	55284	1st, 17th from bottom	Add a comma after the word "section."
1910.304	55284	1st, 11th from bottom	The section number "1910.306" should be "1910.307."
1910.304	55284	2nd, 1st at top	After the words "clothes-drying" delete the comma and add the word "and."
1910.304	55284	2nd, 37th from top	The word "track" should be "tracks."
1910.305	55285	2nd, 22nd from bottom	The word "Nonmetallic" should be "nonmetallic."
1910.305	55285	3rd, 22nd from top	The word "subjected" should be "subject."
1910.305	55286	1st, 33rd from top	The word "weight" should be "weigh."
1910.305	55286	1st, 27th from bottom	After the word "position" and "Single throw knife switches shall be so placed that gravity will not tend to close them."
1910.305	55286	2nd, 10th from bottom	After the word "shall" insert the word "be."
1910.305	55287	1st, 11th from top	Add a hyphen between "power" and "limited."
1910.305	55287	1st, 16th from top	The word "receptables" should be "receptacles."
1910.305	55287	3rd, 16th from top	The word "accidential" should be "accidental."
1910.306	55288	1st, 22nd from bottom	Title "Specific Purpose Equipment and Installations" should be "Specific purpose equipment and installations."
1910.306	55288	2nd, 24th from top	The word "permited" should be "permitted."
1910.306	55288	2nd, 11th from bottom	The word "or" should be "on."
1910.306	55288	3rd, 15th from top	The word "ciruit" should be "circuit."
1910.306	55288	3rd, 11th from bottom	The word "fluorosopic" should be "fluoroscopic."
1910.306	55288	3rd, 1st at bottom	After the word "energized" add a comma.
1910.306	55289	2nd, 19th from top	The word "receptable" should be "receptacle."
1910.306	55289	3rd, 30th from bottom	The word "of" should be "for."
1910.306	55289	3rd, 21st from bottom	The word "receptables" should be "receptacles."
1910.306	55290	1st, 27th from top	After the word "be" add the word "of."
1910.306	55290	1st, 37th from top	The word "of" should be "or."
1910.306	55290	2nd, 9th from bottom	The word "or" should be "of."
1910.307	55291	1st, 21st from top	The word "heat-production" should be "heat-producing."
1910.307	55291	2nd, 12th from top	Delete the word "electric."
1910.307	55292	1st, 34th from bottom	The word "energency" should be "emergency."
1910.307	55292	1st, 20th from bottom	The word "curcuits" should be "circuits."
1910.307	55292	3rd, 12th from top	The word "fire" should be "Fire."
1910.308	55293	1st, 14th from top	The word "Conductors" should be "conductors."
1910.308	55293	1st, 18th from top	The word "gounded" should be "grounded."
1910.308	55293	1st, 22nd from top	The word "gounded" should "grounded."
1910.309	55293	1st, 18th from bottom	The word "Safety Related" should be "Safety-Related."
1910.309	55293	1st, 16th from bottom	The word "Safety Related" should be "Safety-Related."

Section	FR page	Column and line	Correction
1910.399	55293	2nd, 28th from top	The symbol "§" should be "§§."
1910.399	55293	3rd, 8th from top	Delete the word "of."
1910.399	55293	3rd, 9th from top	The word "procuced" should be "produced."
1910.399	55293	3rd, 14th from top	The words "(Plug Cap)" should be "(Plug cap)."
1910.399	55293	3rd, 27th from top	The word "Conductor" should be "conductor."
1910.399	55293	3rd, 7th from bottom	The number "(2)" should be "(20)."
1910.399	55294	1st, 10th from top	The word "cicuit" should be "circuit."
1910.399	55294	1st, 37th from top	The word "becasue" should be "because."
1910.399	55294	1st, 40th from top	The word "processess" should be "processes."
1910.399	55294	2nd, 15th from bottom	The word "Locations" should be "locations."
1910.399	55294	3rd, 27th from top	The word "powers" should be "powders."
1910.399	55294	3rd, 34th from top	The word "dust" should be "dusts."
1910.399	55294	3rd, 38th from top	The word "powers" should be "powders."
1910.399	55295	1st, 19th from top	The word "Locations" should be "locations."
1910.399	55295	2nd, 27th from bottom	The word "Under" should be "under."
1910.399	55295	3rd, 18th from top	The words "Conductor, Equipment" should be "conductor, equipment."
1910.399	55295	3rd, 19th from top	The word "Apparatus" should be "apparatus."
1910.399	55295	3rd, 28th from top	The word "surrouning" should be "surrounding."
1910.399	55295	3rd, 40th from top	The word "of" should be "or."
1910.399	55295	3rd, 44th from top	The number "§ 910.308" should be "§ 1910.309."
1910.399	55295	3rd, 46th from top	The word "positon" should be "position."
1910.399	55296	1st, 13th from top	The word "Effectively" should be "effectively."
1910.399	55296	1st, 14th from top	The word "Volts" should be "volts."
1910.399	55296	1st, 20th from top	The word "Ground" should be "Grounded."
1910.399	55296	1st, 25th from bottom	The word "functiojn" should be "function."
1910.399	55296	1st, 7th from bottom	The word "whetrher" should be "whether."
1910.399	55296	2nd, 3rd from top	The word "opr" should be "or."
1910.399	55296	2nd, 15th from top	The word "Insulted" should be "Insulated."
1910.399	55296	2nd, 18th from top	The words "Volts, Nominal" should be "volts, nominal."
1910.399	55296	2nd, 23rd from top	The word "motrors" should be "motors."
1910.399	55296	3rd, 40th from top	The word "(Filled)" should be "(filled)."
1910.399	55296	3rd, 41st from top	The words "Volts, Nominal" should be "volts, nominal."
1910.399	55296	3rd, 35th from bottom	The word "serving" should be "severing."
1910.399	55296	3rd, 24th from bottom	The word "of" should be "or."
1910.399	55296	3rd, 9th from bottom	The words "Unit", "Counter-Mounted" should be unit, counter-mounted.
1910.399	55297	2nd, 7th from top	The word "assoicated" should be "associated."
1910.399	55297	2nd, 14th from top	The word "applicances" should be "appliances."
1910.399	55297	3rd, 33rd from bottom	Delete the words "against protection."
1910.399	55297	3rd, 24th from bottom	The word "or" should be "of."
1910.399	55298	1st, 19th from top	The word "Sign" should be "sign."
1910.399	55298	1st, 14th from bottom	The word "and" should be "an."
1910.399	55298	2nd, 25th from top	The word "Circuit" should be "circuit."
1910.399	55298	2nd, 11th from top	The word "[Reserved]" should be "[Redesignated]."

[FR Doc. 79-35821 Filed 11-19-79; 8:45 am]
BILLING CODE 4510-26-M

VETERANS ADMINISTRATION

38 CFR Part 21

Veterans Education; Travel Expenses for Counseling Purposes

AGENCY: Veterans Administration.

ACTION: Proposed Regulations.

SUMMARY: The following regulatory provisions, implementing a provision of the Veterans Omnibus Health Care Act of 1976, provide rules for paying for travel expenses incurred going to and from places of counseling by veterans eligible for subsistence allowance or veterans and other persons eligible for eductional assistance. This amendment will implement the provision of the law.

DATES: Comments must be received on or before December 20, 1979. In accordance with Pub. L. 94-581, it is proposed that the amendments be made effective October 21, 1976.

ADDRESSES: Send written comments to: Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420. Comments will be available for inspection at the address shown above during normal business hours until December 31, 1979.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer, Assistant Director for Policy and Program Administration, Education and Rehabilitation Service, Department of Veterans Benefits, Veterans Administration, Washington, DC 20420, (202-389-2092).

SUPPLEMENTATY INFORMATION: Section 21.728 is amended to provide that except under certain specific circumstances reimbursement to a disabled veteran for travel expenses incurred while traveling to and from a place of counseling under chapter 31, title 38, United States Code, will be based upon the cost of public transportation.

Section 21.4104 is amended to make clear when the Veterans Administration will pay for the expenses of veterans and other persons eligible for educational assistance under chapters 34 and 35, title 38, United States Code, while traveling to and from places of counseling; and to state restrictions on such payments.

Additional Comment Information

Interested persons are invited to submit written comments, suggestions or objections regarding these documents to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420. All written comments will be available for public inspection at the above address only between the hours of 8 am and 4:30 pm Monday through Friday (except holidays) until December 31, 1979. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in

Central Office and furnished the address and room number.

Approved: November 14, 1979.

By direction of the Administrator.

Rufus H. Wilson,

Deputy Administrator.

Subpart A—Vocational Rehabilitation Under 38 U.S.C. Ch. 31

1. Section 21.728 is revised as follows:

§ 21.728 Travel expenses for counseling purposes.

When a disabled veteran having basic eligibility for vocational rehabilitation is requested to report to a designated place for counseling, including personal or vocational adjustment counseling, travel to and from the place of counseling will be made at Government expense. When a veteran because of a severe disability requires the services of an attendant while traveling, payment of travel expenses for the attendant is authorized on the same basis as for the veteran. (38 U.S.C. 111)

Subpart D—Administration of Educational Benefits; 38 U.S.C. Chapters 34, 35 and 36

2. Section 21.4104 is revised as follows:

§ 21.4104 Travel expenses.

(a) *General.* The Veterans Administration shall determine and pay the necessary expense of travel to and from the place of counseling for the veteran or eligible person whenever counseling is required, and

(1) The Veterans Administration determines that the veteran or eligible person is unable to defray the cost based upon his or her annual declaration and certification, or

(2) The veteran or eligible person has a service-connected disability. (38 U.S.C. 111)

(b) *Restriction.* The Veterans Administration will not pay the necessary cost of travel to and from the place of counseling when counseling is not required but is provided as a result of a voluntary request by the veteran or eligible person. (38 U.S.C. 111)

(c) *Travel for attendants.* When a veteran or eligible person because of a severe disability requires the services of an attendant while traveling, payment of travel expenses for the attendant is authorized on the same basis as for the veteran. (38 U.S.C. 111)

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BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 65

[FRL 1362-4]

State and Federal Administrative Orders Permitting a Delay in Compliance with State Implementation Plan Requirements; Proposed Delayed Compliance Order for American Can Co.

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: U.S. EPA proposes to issue an Administrative Order to American Can Company. The Order requires the Company to bring three gravure printing press drying ovens (the source) into compliance with AP-5-07(G)(1) part of the federally approved Ohio State Implementation Plan (SIP). Because the Company is unable to comply with this regulation at this time, the proposed Order would establish an expeditious schedule requiring final compliance by December 31, 1979. Source compliance with the Order would preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act (Act) for violation of the SIP regulation covered by the Order.

The purpose of this notice is to invite public comment and to offer an opportunity to request a public hearing on U.S. EPA's proposed issuance of the Order.

DATES: Written comments must be received on or before the thirtieth day from the date of this notice and requests for a public hearing must be received on or before the fifteenth day from the date of this notice. All requests for a public hearing should be accompanied by a statement of why the hearing would be beneficial and a text or summary of any proposed testimony to be offered at the hearing. If there is significant public interest in a hearing, it will be held after twenty-one days prior notice of the date, time, and place of the hearing has been given in this publication.

ADDRESSES: Comments and requests for a public hearing should be submitted to Director, Enforcement Division, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604. Material supporting the Order 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: Bertram Frey, Attorney, Enforcement Division, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, at (312) 353-2082.

SUPPLEMENTARY INFORMATION: American Can Company owns a facility at Cleveland, Ohio. The proposed Order addresses emissions from three gravure printing press drying ovens at this facility, which is subject to AP-5-07(G)(1) of the Ohio Implementation Plan. The regulation limits the emissions of volatile organic material and is part of the federally approved Ohio State Implementation Plan. The Order requires final compliance with the regulations by December 31, 1979 and the source has consented to its terms.

The proposed Order satisfies the applicable requirements of section 113(d) of the Act. If the Order is issued, source compliance with its terms would preclude further U.S. EPA 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 provisions of the Act (section 304) would be similarly precluded.

Comments received by the date specified above will be considered in determining whether U.S. EPA should issue the Order. Testimony given at any public hearing concerning the Order will also be considered. After the public comment period and any public hearing, 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.

Dated: November 5, 1979.

John McGuire,

Regional Administrator, Region V.

In consideration of the foregoing, it is proposed to amend 40 CFR Chapter 1, as follows:

PART 65—DELAYED COMPLIANCE ORDERS

1. By adding the following entry to the table in § 65.400:

§ 65.400 Federal delayed compliance orders issued under section 113(d) (1), (3), and (4) of the Act.

U.S. Environmental Protection Agency

In the Matter of: American Can Company, Brookside Plant, Cleveland, Ohio.
Order No. EPA ——.

Order

This order is issued this date pursuant to Section 113(d) of the Clean Air Act, as amended, 42 U.S.C. Section 7401 *et seq.*, ("Act"). This order contains a schedule for compliance, interim control requirements, demonstration of compliance and reporting requirements. Public notice, opportunity for

public hearing, and thirty (30) day notice to State of Ohio have been provided pursuant to § 113(d)(1) of the Clean Air Act.

Findings

1. On December 30, 1977, David Kee, Acting Director, Enforcement Division, United States Environmental Protection Agency ("U.S. EPA"), Region V, sent a Notice of Violation (EPA–5–78–A–38) to William Woodside, President of the American Can Company ("American Can"). The Notice cited three violations of Ohio Air Pollution Regulation AP–5–07(G)(1), one for each of three gravure printing press drying ovens designated Units 7111, 7113 and 7114. A copy of the Notice was sent to the Ohio Environmental Protection Agency ("Ohio EPA"). The findings of violation were based upon emission calculations derived from data submitted to U.S. EPA by American Can and from information gained during an inspection of American Can's Brookside facility.

2. More than 30 days have expired since the issuance of the December 30 1977, Notice of Violation.

3. In satisfaction of Section 113(a)(4) of the Act, opportunity to confer with the Administrator's delegate was given to American Can, and on February 9, 1978, an enforcement conference was held.

4. It has been determined that American Can will expeditiously use ultraviolet (UV) curing, a new means of emission limitation, which is likely to be adequately demonstrated upon expiration of this order.

5. The Administrator of U.S. EPA has determined that the UV curing system is not likely to be used by American Can in its Brookside plant unless this order is granted.

6. The Administrator of U.S. EPA has also determined that the UV curing system for hydrocarbon emission control has a substantial likelihood of achieving and equivalent continuous emission reduction at lower cost in terms of energy, economics and non-air quality environmental impacts than the means of emission limitation that but for the order would be required.

7. Next, the Administrator has determined that compliance by American Can at its Brookside plant with the requirements of Regulations AP–5–07(G)(1) would be impracticable prior to and during the installation of the UV curing system.

8. Finally, it has been determined that American Can is unable to comply immediately with Regulation AP–5–07(G)(1) at its Brookside plant.

Order

After a thorough investigation of all relevant facts, including public comment, it is determined that the schedule for compliance set forth in this order is as expeditious as practicable, and that the terms of this order comply with Section 113(d) of the Act. Therefore, it is hereby ordered:

I

American Can shall comply with Regulation AP–5–07(G)(1), as approved by EPA on April 15, 1974, in accordance with the following schedule on or before the dates specified therein:

A. American Can shall bring its Brookside plant into final compliance with the Regulation AP–5–07(G)(1) by December 31, 1979. In particular, American Can shall bring Gravure Drying Ovens Units 7111, 7113, 7114 into final compliance with Regulation AP–5–07(G)(1) as set forth in the schedule below. Hydrocarbon emissions from Unit 7114, shall be controlled by UV curing. Hydrocarbon emissions from the remaining two Units 7111 and 7113, shall be immediately brought into compliance by operating schedule alterations once the UV curing system has been installed.

Complete design engineering—Increment Completed

Order all necessary pollution control equipment—Increment Completed

Complete delivery of all necessary pollution control equipment and commence installation of the control system—Increment Completed

Commence trial operation of the control system; for Units 7111, 7113 and 7114—December 1, 1979

Achieve and demonstrate final compliance by submitting the results of a performance test of the control system for Unit 7114 and by submitting the results of compliance tests for Units 7111 and 7113—December 31, 1979

B. American Can shalll immediately institute any appropriate surveillance, operation and maintenance procedures that will result in the reduction, to the greatest extent practicable, of hydrocarbon emmissions at its Brookside plant during the interim period pending final compliance for each source.

C. In the event American Can is unable, for reasons entirely outside its control, to achieve the final or the interim compliance dates specified in Paragraph I.A., American Can shall provide notification to U.S. EPA as required by Paragraph III.A., and shall be eligible to receive from U.S. EPA an extension of applicable final and interim compliance dates day-for-day for each day American Can is thus unable to proceed toward compliance. The burden of demonstrating that any delay is entirely beyond the control of the Company is upon American Can. In no event shall an extension of the final completion date go beyond July 1, 1980.

II

The schedule and requirements set forth in Paragraph I above contain interim requirements which are determined to be reasonable, and constitute the best practicable system of emissions reduction which are necessary to avoid imminent and substantial endangerment to the health of persons, and which are necessary to assure compliance with Regulation AP–5–07(G)(1) insofar as American Can is able to comply during the period Order is in effect.

American Can shall comply with the following emissions reporting requirements on or before the dates specified:

A. No later than five (5) working days after any date for achievement of an incremental or final compliance date specified in this order, American Can shall notify U.S. EPA in writing of its compliance, or noncompliance and the reasons therefor, with any requirement. If delay is anticipated in meeting any requirement of this order, American Can shall immediately notify U.S. EPA in writing of the anticipated delay and the reasons therefor. Notification to U.S. EPA of any anticipated delay does not excuse the delay, except as provided in Paragraph I.C.

B. All submittals and notifications to U.S. EPA under the terms of this Order shall be made to Director, Enforcement Division, Region V, U.S. EPA, 230 S. Dearborn Street, Chicago, Illinois 60604.

IV

American Can is not relieved by this order from compliance with any requirement imposed by the applicable State implementation plan, U.S. EPA, or the courts pursuant to Section 303 of the Act during any period of imminent and substantial endangerment to the health of persons.

V

Nothing herein shall effect the responsibility of American Can to comply with any state or local regulation, or with any other Federal regulation.

VI

American Can is hereby notified that its failure to achieve final compliance as specified above by December 31, 1979, or such later date provided by Paragraph I.C., may result in a requirement to pay noncompliance penalties under Section 120 of the Act. In the event of such failure, American Can will be formally notified pursuant to Section 120(b)(3) of the Act. Notification given by this Paragraph, however, does not constitute notice for the purposes of Section 120(b)(3) of the Act.

VII

As long as American Can is in compliance with requirements of this order, U.S. EPA shall not institute any Federal enforcement action against American Can concerning the units identified above at the Brookside plant, based on the asserted noncompliance with Regulation AP–5–07(G)(1).

VIII

American Can has specifically agreed to the terms of this order and shall not be entitled to challenge any of its terms in an action by U.S. EPA to enforce the order.

IX

This order is effective immediately.

Date:————

Douglas Costle,

Administrator, United States Environmental Protection Agency.

Consent To Issuance of Order

American Can, by the duly authorized undersigned, hereby waives any and all rights to challenge this order and consents to the issuance of this order, such consent and waiver to become effective upon the issuance by U.S. EPA of this order in its present form.

Date:————

American Can Company

[FR Doc. 79–35685 Filed 11–19–79; 8:45 am]

BILLING CODE 6560–01–M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

45 CFR Part 86

Nondiscrimination on the Basis of Sex in Education Programs and Activities Receiving or Benefiting From Federal Financial Assistance

AGENCY: Office of the Secretary, HEW.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: The purpose of this notice is to withdraw the notice of proposed rulemaking, published at 43 FR 58076 on December 11, 1978, in which the Department proposed to revoke a subparagraph of its Title IX Regulation which prohibits recipients of Federal funds for education programs and activities from discriminating on the basis of sex in rules governing student appearance.

FOR FURTHER INFORMATION CONTACT: Colleen O'Connor, 202–245–6700.

SUPPLEMENTARY INFORMATION: The Department has determined that rulemaking action on subparagraph, 45 CFR 86.31(b)(5), is not appropriate at the present time, and the proposal published in the Federal Register (43 FR 58076) on December 11, 1978, entitled "Nondiscrimination on the Basis of Sex in Education Programs and Activities Receiving or Benefiting from Federal Financial Assistance" is hereby withdrawn.

Dated: November 13, 1979.

Patricia Roberts Harris,

Secretary of Health, Education, and Welfare.

Albert T. Hamlin,

Acting Director, Office for Civil Rights.

[FR Doc. 79-35677 Filed 11-19-79; 8:45 am]

BILLING CODE 4110-12-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1111

[Ex Parte 282 (Sub-3)]

Railroad Consolidation Procedures

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rule making and exemption.

SUMMARY: The ICC proposes to revise its regulations relating to rail consolidation procedures. These regulations set out the information to be filed, and the procedures to be followed in control, merger, acquisition, lease, trackage rights, coordination projects and any other consolidation transaction involving more than one railroad initiated under two sections of the Railroad Revitalization and Regulatory Reform Act of 1976.

DATE: Comments must be received on or before December 20, 1979.

ADDRESS: Send comments to: Interstate Commerce Commission, 12th and Constitution Ave., NW, Washington, D.C. 20423. All written comments will be available in Room 1221 during normal business hours at same address.

FOR FURTHER INFORMATION CONTACT: Michael Erenberg (202) 275–7245.

SUPPLEMENTARY INFORMATION:

Background. We revised the ICC *Railroad and Water Consolidation Procedures*, 49 CFR Part 1111 (1976) pertaining to the content and procedures for applications involving railroad transactions under 49 U.S.C. 11343–11348 and 11350, in *Railroad Consolidation Procedures*, 348 I.C.C. 771 (1977), and 42 FR 14871. These regulations are found in the ICC *Railroad Acquistion, Control, Merger, Coordination Project, Trackage Rights and Lease Procedures*, 49 CFR Part 1111 (1978) (Old Consolidation Procedures).

That revision of our Consolidation Procedures was necessary because of amendments to former section 5 of Interstate Commerce Act (now 49 U.S.C. 11343–11348, and 11350) contained in section 402 and 403 for the Railroad Revitalization and Regulatory Reform Act of 1976, Pub. L. 94–210 (4R Act). These amendments required the Commission to reach a decision in rail proceedings within strict time limits (See 49 U.S.C. 11345), and developed an expedited procedure for considering rail consolidations presented to the United States Secretary of Transportation (See 49 U.S.C. 11346 and 11350). The Old Consolidation Procedures required the information we believed necessary to comply with the statutory time limits in 49 U.S.C. 11345, and proceed under the expedited procedures in 49 U.S.C. 11346 and 11350. We required voluminous information in applications for all types of rail consolidations.

Subsequent to our adoption of the Old Consolidation Procedures, we have been asked to rule on numerous matters concerning waiver, clarification, and other procedural matters involving these procedures. Numerous applications have been filed under the Old Consolidation Procedures. We have reviewed and considered these applications. In light of our experience, we are now in a position to revise the Old Consolidation Procedures.

Purpose. Our revision of the Old Consolidation Procedures will reduce informational requirements for different types of applications, clarify the information to be filed in all applications, and expand on the procedures for handling, prosecuting, and opposing an application. We have also determined to institute a proceeding to exempt certain transactions from our regulation because of their minimum impact on the national transportation system.

This revision of the Old Consolidation Procedures changes the format to a logical sequence for planning, preparing, and considering an application. The change in format makes the Consolidation Procedures easier to follow, and spells out the specific information that must be included in each type of application.

We request comments on all portions of the Proposed Consolidation Procedures. It would be most valuable, however, to receive comments on the changes.

Preamble. We have added a preamble to the Proposed Consolidation Procedures to give a brief overview. Comments should discuss (1) the concept of a preamble and (2) the contents of the preamble.

Types of Transactions. In the Proposed Consolidation Procedures, we have developed three types of transactions: *major*, *minor*, and *exempt*. Each has different information and filing requirements. The *major* transaction requires more information than the *minor* transaction which requires more information than the *exempt* transaction.

Section 1111.1(a) defines a *major* transaction as including (1) control, merger, or consolidation transactions or (2) a major market extension resulting from acquisition, lease, partial purchase, purchase, or trackage rights involving one or more Class I or Class II railroads acting together with one or more other Class I or Class II railroads. It is our view that *major* transactions require the most information in order to determine whether the proposal is consistent with the public interest within the strict time limits of 49 U.S.C. 11345.

Minor transactions have little competitive or operational impact. They are defined in § 1111.1(b) as transactions involving more than one railroad which are not *major* or *exempt*. Much less information is required to determine, within the time limits, whether a *minor* transaction is

consistent with the public interest compared to a *major* transaction.

Because of *de minimis* competitive and operational impact we propose to *exempt* seven classes of transactions from our jurisdiction. Comments on the proposed exemptions contained in § 1111.1(c) should evaluate each transaction in light of the standards in 49 U.S.C. 10505.

The proposed exemptions are (1) acquisition of a line railroad where the public convenience and necessity has been found to permit abandonment; (2) acquisition of a non-connecting carrier where (a) the railroads would not connect with each other or any railroad in their corporate family, and (b) the acquisition is not part of a series of anticipated transactions that would connect the railroads with each other or any railroad in their corporate family; (3) transactions within a corporate family that do not result in an operational change or affect the competitive balance with carriers outside the corporate family; (4) renewal of leases or trackage rights contracts and other matters, where the Commission has previously authorized the transaction, and only an extension in time is involved; (5) joint projects involving the relocation of a line or railroad which does not disrupt service to shippers; and (6) reincorporation in a different State. We solicit comments on whether these transactions are the type which should be exempted from our regulation under 49 U.S.C. subtitle IV.

Additionally, we are seeking comments on whether the exemption proposal in § 1111.1(c)(vii) should be adopted. We propose to exempt transactions from the filing of inconsistent applications, petitions for inclusion, or any other proposed relief requiring an application before us if a railroad does not indicate its intention to seek such relief in its written comments. This exemption would permit us to expedite processing applications since we will not have to wait the statutorily-mandated 90 days to see if an inconsistent application, petition for inclusion, etc., is filed. This exemption would apply 49 U.S.C. 11344(b)(2) and 11345(c).

Identifying information. Section 1111.2 of the Proposed Consolidation Procedures requires information identifying the applicant and the transaction.

The information required for all applications is in paragraph (a). Section 1111.2(a)(1) requires a brief summary of the transaction including a time schedule for consummation, the purposes of the transaction, the financial arrangements, public interest justifications, and other supporting information. An opinion of counsel as to the legality of the transaction is also required. In paragraph (a)(2) information is required identifying the applicants, including name and address, States in which applicants operate, and a map. Paragraph (a)(3) requires an explanation of the transaction including the agreement; the required court order; the property involved; the principal routes involved; the governmental financial assistance involved if any; the labor impact; the environmental data; and the energy data.

Section 1111.2(b) requires further information for *major* transactions. The identity of applicants and their type of business is requested in greater detail. Information is also required about the officers, directors, and stockholders or other owners of the company. A corporate chart is required in § 1111.2(b)(1)(vi) to provide a graphic display of the applicant's relation to other businesses and/or carriers.

A more detailed explanation of the transaction is required by § 1111.2(b)(2). This consists of the documents authorizing the transaction.

Traffic data. Section 1111.3 of the Proposed Consolidation Procedures requires specific traffic data for *major* transactions. *Minor* and *Exempt* transactions do not require this data. The data required is essentially unchanged from that required by the Old Consolidation Procedures.

Paragraph (a) requires Density charts. Carload interchange data and State-to-State interchange data are required by (b). The State-to-State data is only required where 100 or more cars per year per connecting carrier are involved. Carload origin and destination data is required in (c), while (d) requires freight car fleet data. Revenue freight traffic data, paragraph (e), and commodity revenue data, paragraph (f), are also required. Paragraph (g) requires data on Commodity tonnage.

The Traffic study in paragraph (h) has been altered to clarify (1) the information required to make the study, (2) the format for showing the results, and (3) the format for presenting certain traffic information used to determine diversion (a one page study movement sheet-Appendix C). A discretionary Traffic study considering the diversion of traffic not currently moving by rail has been added in § 1111.3(h)(11).

Operational data. The operational information is required by section 1111.4 of the Proposed Consolidation Procedures. The operating plan for a *major* transaction is required by paragraph (A). The information to be presented in the operating plan is unchanged from the Old Consolidation Procedures, except that it must be for a minimum of 3 years, or for as long as implementation of the plan requires.

The operating plan for *minor* transactions is in paragraph (b). No change has been made in the required information.

Financial information. This data is required by § 1111.5.

In § 1111.5(a) information is required for all transactions. This includes the valuation of property and securities issued, along with a description of encumbered property.

In § 1111.5(b) additional financial data is required for *major* transactions. This includes a balance sheet, *pro forma* balance sheet, income statement, *pro forma* income statement, and a sources and application of funds statement. The *pro forma* balance sheet, *pro forma* income statement, and sources and application of funds statement have been changed from the Old Consolidation Procedures to reflect the length of time, at least 3 years, necessary to implement the operating plan.

In addition to the information required in § 1111.5(a) for all transactions, *minor* transactions require a balance sheet and income statement pursuant to § 1111.5(c).

Procedures. The Proposed Consolidation Procedures have refined and clarified the procedures to be followed in filing, prosecuting, and opposing a proposed transaction. This information is contained in § 1111.6.

Paragraph (a) establishes general requirements for all transactions. These include promptly furnishing any document filed with the Commission, including applications, pleadings, etc., to interested persons on request, unless subject to a protective order. We have also indicated the Commission will prepare and serve a service list 55 days after the application has been accepted. For major transactions the original and 20 copies of all documents shall be filed, while the original and 10 copies shall be filed in minor transactions. In order to handle expeditiously the documents filed in these proceedings each party much choose a unique four-letter acronym for itself. Having chosen the acronym, the party shall then consecutively number each document filed, prefixed by its acronym.

Paragraph (b) requires a prospective major transaction applicant to notify the Commission between 3 to 6 months before the application is filed. Any prospective party, along with the Commission, will then be advised of the prospective transaction. Once the Commission has received the notice, a

notice will be published in the **Federal Register** briefly describing the transaction, indicating the traffic study year, indicating the approximate filing date of the application, and indicating if it is actually a *major* transaction.

The actual filing of the application is governed by paragraph (c). The filing fee for the original application is $700. There is no filing fee for a directly related application, or for a responsive application (*e.g.*, a petition for inclusion, an inconsistent application, or any other responsive application). The filing requirements under (c)(2) have only been changed from the Old Consolidation Procedures in (c)(2)(vii). There, an exception to filing a required exhibit has been made for carload interchange data and the traffic study SMS.

Paragraph (c)(3) requires all direct testimony by applicants to be submitted in the form of verified statements concurrently with an application proposing a *major* transaction. Any application responsive to an application proposing a *major* transaction must also contain all direct testimony in the form of verified statements supporting the responsive application.

Paragraph (c)(4) provides for the application or exhibits to be considered part of the evidentiary record, subject to motions to strike.

Paragraph (c)(5) requires the application to be served on certain States, the United States Department of Transporation, the United States Attorney General, the Federal Trade Commission, and certain other railroads. Additionally, a copy of applications filed under 11346, must also be served on the Secretary of Labor. Other carriers must initially be served a copy of the application in a major transaction.

Paragraph (c)(6) contains the requirements for an application's format. The information must be presented in the application in the same sequence as the Proposed Consolidation Procedures. Appendices should be used where possible. Colored covers for each volume, if more than one volume is filed, and pages numbered beginning with one in each volume must be used. An informal interpretation of necessary information or format for the application may be obtained, until further notice, from the Commission from the Deputy Director, Section of Finance, of the Office of Proceedings under (c)(6)(iii). The acceptance or rejection of the application is governed by (c)(7). Only a complete application will be accepted.

The procedures for responding to an application are set out in (d).

One response may be written comments. The Proposed Consolidation Procedures set out when the comments must be filed, on whom they must be served, and what they must contain. Special information must be included by a railroad filing a written comment. This information is contained in (d)(1)(iii)(H) and consists of (1) preferential solicitation agreements, (2) run through train operations, and (3) initial protective conditions. Additionally, a person filing written comments is considered a party of record and need not file a petition to intervene to become a party.

Other special responses include (1) a final list of protective conditions, filed within 75 days of the application's acceptance (Paragraph (d)(3)), (2) all responsive applications filed within 90 days of the application's acceptance ((d)(4)) and (3) protestant traffic studies (only in *major* cases), filed within 90 days of the application's acceptance.

Paragraph (e) describes the information the Commission may consider in setting a proceeding for oral hearing.

Paragraph (f) discusses requirements for filing a petition for waiver or clarification. It must be filed at least 45 days prior to filing an application. No replies will be allowed, except in exceptional instances where the parties are parties to a currently pending related transaction. Waivers will apply to all other parties to a proceeding. The entire Commission will decide all requests for waiver. A petition for waiver must specify the portion of the Proposed Consolidation Procedures sought to be waived, along with the reason supporting waiver.

The notice of exemption is governed by paragraph (g). It must be filed with the Commission when the transaction is consummated and include certain information. The Commission will publish a notice in the **Federal Register** within 30 days, indicating that the exempt transaction has taken place. In the event the Commission discovers false or misleading information in the notice, it will summarily revoke the exemption for that carrier, and require the carrier to divest.

In the Old Consolidation Procedures the Commission developed special procedures for any application filed under 49 U.S.C. 11346. These special procedures have been adopted in paragraph (h) without any substantive change.

Section 1111.7 defines the terms applicant, applicant carriers, major market extension, railroad, transferee, and transferor.

The General Policy Statement contained in § 1111.10 has not been altered.

Appendix A of the Proposed Consolidation Procedures contains the format to be followed in compiling exhibit 18 describing the revenue carload interchange. Appendix A retains the same format used for exhibit A–13 in the Old Consolidation Procedures.

Appendix B contains the format for exhibit 19. This exhibit concerns itself with revenue carload interchange in state-to-state movements by gateway. This format is the same as used in exhibit A–14 of the Old Consolidation Procedures.

Appendix C contains the Study Movement Sheet (SMS) format for use in exhibit 25, the Traffic study. The SMS was developed to contain all data we believe necessary to be considered in making a judgement as to the divertibility of traffic. We also believe that format will reduce the paper required to prepare the Traffic study. One sheet is sufficient to present all necessary information.

Index I of the Proposed Consolidation Procedures numerically lists all exhibits. Listed with the exhibit numbers are the corresponding names and sections of the Proposed Consolidation Procedures. Additionally, the application type for each exhibit is also listed.

Index II of the Proposed Consolidation Procedures consists of a table of contents detailing the information contained in the Proposed Consolidation Procedures. The contents are in section sequence with a descriptive title. Additionally, any exhibit contained in a section is listed. The type of application corresponding to a section of the Proposed Consolidation Procedures is also listed.

We request comments on the general format of the Proposed Consolidation Procedures. Additionally, we request comments on the individual sections which have been altered.

Comments on the definitions of *major*, *minor*, and *exempt* transactions are solicited. In addition, we also request comments on the information required for each type of application.

The other major change in the Old Consolidation Procedures has been with respect to procedural matters. We solicit comments on all procedural aspects, particularly the new time requirements, the pre-filing notification requirements, and the waiver petition requirements.

The Commission invites all interested persons to participate in this proceeding. The originial and 20 copies of written facts, views, and arguments concerning the proposal detailed in this notice shall be submitted. It should be noted that the Proposed Consolidation Procedures may be modified by the comments we receive.

This proceeding does not appear to be a major Federal action significantly affecting energy consumption or the quality of the human environment.

Issued under the authority of 5 U.S.C. 553 and 49 U.S.C. 11343–11348.

Decided: October 19, 1979.

By the Commission, Chairman O'Neal, Vice Chairman Stafford, Commissioners Gresham, Clapp, Christian, Trantum, Gaskins, and Alexis. Vice Chairman Stafford absent and not participating.

Agatha L. Mergenovich,

Secretary.

Accordingly, it is proposed to amend 49 CFR by revising Part 1111 to read as follows:

PART 1111—PROCEDURES FOR RAILROAD ACQUISITION, CONTROL, MERGER, CONSOLIDATION, COORDINATION PROJECT, TRACKAGE RIGHTS, LEASE, ETC., PROCEEDINGS

Sec.
1111.0 Preamble.
1111.1 Types of transactions.
1111.2 Identifying information.
1111.3 Traffic data.
1111.4 Operational data.
1111.5 Financial information.
1111.6 Procedures.
1111.7 Definitions.
1111.8 Reserved.
1111.9 Reserved.
1111.10 General Policy Statement.

Authority: 5 U.S.C. 553 and 49 U.S.C. 11343–11348.

§ 1111.0 Preamble.

(a) These regulations set out the information to be filed, and the procedures to be followed in control, merger, acquisition, lease, trackage rights, coordination project and any other consolidation transaction involving more than one railroad initiated under 49 U.S.C. 11344 or 11346. There are three types of transactions, *major, minor,* and *exempt,* which are identified in § 1111.1. There are different informational requirements for each type of transaction. Before an application is filed, the designation or type of transaction may be clarified or certain of the information required may be waived upon petition to the Commission. This is detailed in § 1111.6. The required contents of the application are set out in §§ 1111.2. through 1111.5. Information concerning the identity of applicant carriers and the transaction is in § 1111.2, competitive and traffic information is in § 1111.3, operational information is in § 1111.4, and financial data is in § 1111.5.

(b) Procedures, including time limits, filing requirements, participation requirements, and other matters are contained in § 1111.6.

(c) Definitions of the terms applicant, applicant carriers, major market extension, railroad, transferee, and transferor are contained in § 1111.7.

(d) Index number 1 lists all exhibits by number, name, and section, and references the type of application for which the exhibit is required. Index 2 is a table of contents

(e) All applications must comply with the Commission's general procedural rules, unless otherwise specified. These rules are found in the I.C.C. *General Rules of Practice,* 49 CFR Part 1100.

(f) The information required for a *major* application is contained in §§ 1111.2, 1111.3, 1111.4(a), and 1111.5(a-b). The information required for a *minor* application is contained in §§ 1111.2(a), 1111.4(b), and 1111.5(a and c).

(g) If certain information required is not applicable, provide an explanation.

§ 1111.1 Types of transactions.

Transactions proposed under 49 U.S.C. 11344 and 11346 involving more than one common carrier by railroad are of three types: *major, minor,* and *exempt.*

(a) A *major* transaction includes:

(1) Control, merger, or consolidation transactions, or

(2) A major market extension resulting from

(i) Acquisition;

(ii) Lease;

(iii) Partial purchase;

(iv) Purchase;

(v) Trackage rights.

A major transaction must involve one or more Class I or Class II railroads, acting together with one or more other Class I or Class II railroads.

(b) A *minor* transaction is one which involves more than one railroad and which is not a *major* or *exempt* transaction.

(c) An *exempt* transaction involves more than one railroad where prior Commission review and approval (1) is not necessary to carry out the transportation policy of 49 U.S.C. 10101, (2) would be an unreasonable burden on a person, class of persons, or interstate and foreign commerce, and (3) would serve little or no useful public purpose. See 49 U.S.C. 10505. The following transactions are exempt:

(i) Acquisition of a line of railroad where the public convenience and necessity have been found to permit abandonment.

(ii) Acquisition of a non-connecting carrier where (A) the railroads would not connect with each other or any railroads in their corporate family, (B) the acquisition is not part of a series of anticipated transactions that would connect the railroads with each other or any railroad in their corporate family, and (C) the transaction does not involve a Class I carrier.

(iii) Transactions within a corporate family that do not result in operational changes or affect the competitive balance with carriers outside the corporate family.

(iv) Renewal of leases or trackage rights contracts and any other matters, where the Commission has previously authorized the transaction, and only an extension in time is involved.

(v) Joint projects involving the relocation of a line of railroad which does not disrupt service to shippers.

(vi) Reincorporation in a different State.

(vii) If no railroad files timely written comments indicating an intent to file an inconsistent application, petition for inclusion or any other relief requiring an application before the Commission, the transaction is exempt from the filing of those applications, and no relief under 49 U.S.C. 11344(b)(2) or 11345(c) may be sought.

§ 1111.2 Identifying information.

(a) *All applications* filed under 49 U.S.C. 11344 or 11346 shall show in the title, the names of the applicants and the nature of the proposed transaction. Beneath the title indicate the name, title, business address, and telephone number of the person(s) to whom correspondence with respect to the application should be addressed. The following information shall be included in *all* applications seriatim:

(1) *Summary.* A brief narrative description of the proposed transaction shall serve as an introduction to the application. It shall include appropriate references to supporting exhibits and statements in the application and shall generally discuss the following matters:

(i) A brief summary of the proposed transaction including the name of applicant, and applicant carriers.

(ii) The proposed time schedule for consummation of the proposed transaction.

(iii) The purposes sought to be accomplished by the proposed transaction, *e.g.,* operating economies, elimination of excess facilities, extension of markets, improved financial viability.

(iv) The nature and amount of any new securities or other financial arrangements.

(v) A brief summary of the applicant's public interest justifications in support of the application indicating how the proposed transaction is consistent with the public interest, with particular regard to:

(A) The financial consideration involved in the proposed transaction, including an explanation of economies, if any, to be effected in operations, and increases, if any, in traffic, revenues, earnings available for fixed charges, and net earnings, expected to result from the consummation of the proposed transaction.

(B) The effect of the proposed transaction upon adequate rail and other transportation services to the public.

(C) The effect of the increase, if any, of total fixed charges resulting from the proposed transaction.

(D) The effect of any guaranty or assumption of payment of dividends or fixed charges contemplated in the proposed transaction.

(E) The effect of the proposed transaction upon applicant carriers' employees.

(F) The effect of the inclusion or the failure to include, other railroads in the territory involved in proposed transaction under 49 U.S.C. 11344.

(vi) Any other supporting or descriptive statements applicant deems material.

(vii) An opinion of counsel of applicant that the transaction described in the application meets the requirements of the law and will be legally authorized and valid, if approved by the Commission with specific reference to any specifically pertinent provisions of applicant's charter or articles of incorporation.[1]

(2) *Identification of applicant carriers.* (i) Indicate the full and correct name of each applicant carrier and business address (street and number, city, State, and zip code).

(ii) Indicate the State or States in which any part of the property of each applicant carrier is situated.

(iii) *Map (Exhibit 1).* Submit a general or key map indicating clearly, in separate colors, or otherwise, the line or lines of applicant carriers in their true relation to each other, short line connections, other rail lines in the territory, and the principal geographic points in the region traversed. If a geographically limited transaction is proposed, a map detailing the transaction should also be included. In addition to the maps accompanying each application, three unbound copies of the map shall be filed with the Commission.

(3) *Explanation of the transaction.*

(i) Described the nature of the transaction (*e.g.*, merger, control, coordination project, trackage rights), the significant terms and conditions, and the consideration to be paid (monetary or otherwise).

(ii) *Agreement (Exhibit 2).* Submit a copy of any contract or other written instrument entered into, or proposed to be entered into, pertaining to the transaction covered by the application.[2]

(iii) If a consolidation or merger is proposed, indicate (A) the name of the company resulting from the consolidation or merger, (B) the State or territory under the laws of which the consolidated company is to formed or the merged company is to file its certificate of amendment, (C) the capitalization proposed for the company resulting from the consolidation or merger, and (D) the amount and character of capital stock and other securities to be issued.

(iv) *Court order (Exhibit 3).* If a trustee, receiver, assignee, or personal representative of the real party in interest is an applicant, submit a certified copy of the order, if any, of the court having jurisdiction, authorizing the contemplated action.

(v) State whether the property involved in the proposed transaction includes all the property of the applicant carriers and, if not, describe what property is included in the proposed transaction.

(vi) Briefly describe the principal routes and terrminals of the lines involved, the principal points of interchange on the routes, and the amount of main line mileage and branch line mileage involved.

(vii) State whether any governmental financial assistance is involved in the proposed transaction and, if so, the form, amount, source, and application of such financial assistance.

(viii) *Labor impact (Exhibit 4).* Furnish the following information with respect to impacts on *railway* labor:

(A) A copy of any agreement or agreements with employee organizations entered into as a result of the proposed transaction.

(B) For all personnel covered by pension plans supplemental to the Railroad Retirement Act, a list of the pension plans currently in effect, indicating whether or not they are funded, the extent of any unfunded liability, and the time required to bring the plans to a fully funded level.

(C) The number, location, craft or class and classification of all positions of the applicant carriers which under the proposed transaction are to be abolished, consolidated, created or transferred (including the point or points from and to which positions will be transferred).

(D) For each of the changes specified in item (c), the cost and savings to the railroad(s) in effectuating such changes, listed for each of the 3 years following consummation of the proposed transaction and the amount by craft or class and classification to which such costs and/or savings will be attributed.

(E) The date or dates on which each job abolishment, transfer, consolidation, or creation set forth under item (C) above is to be effectuated and a statement as to whether or not implementing agreements have been negotiated with appropriate labor organizations with respect to such proposed changes.

(F) The annual net change in employment for applicant carriers by craft or class and classification for the last 6 years preceding the filing of the application.

(ix) *Enviroment data (Exhibit 5).* Submit information and data with respect to environmental matters prepared in accordance with the ICC *Revised Guidelines for Implementation of the National Environmental Policy Act of 1969,* 49 CFR Part 1108.

(x) *Energy data (Exhibit 6).* Submit information and data with respect to energy consumption prepared in accordance with the ICC *Implementation of the Energy Policy and Conservation Act of 1975,* 49 CFR Part 1106

(b) In addition the following information shall be provided only for all *major* transactions.

(1) *Identification of applicant.* (i) If applicant is a corporation:

(A) Date of incorporation [3] and Government, State, or territory of incorporation.

(B) Name and business address of directors.

(C) Name, title and business address of officers.

(D) Name and business address of 10 principal stockholders as of last record date and their respective holdings.

(E) Charter (Exhibit 7). One copy each of the charter or articles of incorporation, and the bylaws and amendments thereof, of each applicant,

[1] In a control transaction, or in the case of an inconsistent application, petition for inclusion, or other relief requiring that an application be filed with the Commission, an opinion of counsel is not required for the party sought to be controlled, or for the party against whom relief is sought.

[2] Where an inconsistent application, petition for inclusion, or any other type of application is filed seeking affirmative relief, a final signed contract or agreement need not be filed. However, a draft contract or agreement spelling out its significant terms should be submitted.

[3] If the applicant is incorporated or organized under the laws of, or authorized to operate in, more than one State, territory, or Federal district, give all pertinent facts as to such incorporations, organization, or authorization.

duly certified by the appropriate public officer.

(ii) If applicant is a partnership indicate:

(A) Date on which partnership was formed, and State and county in which it was formed.

(B) Name and business address of all present partners, including limited or silent partners and their respective interests.

(C) Partnership articles (Exhibit 8). A properly authenticated copy of the articles of partnership, if any.

(iii) If applicant is an association or other form of organization, other than a corporation indicate:

(A) Date of organization and place of organization.

(B) Full description of the nature and objectives of the organization.

(C) Name, title, and business address of officers and directors, or trustees.

(D) Name and business address of applicant's 10 principal stockholders or owners.

(E) Documents of association (Exhibit 9). A properly authenticated copy of articles of association, trust agreement, or other similar documents.

(iv) If applicant is a trustee, receiver, assignee, or a personal representative of the real party in interest, provide:

(A) The name and address of the court, if any, under the direction of which applicant is acting.

(B) The nature of the proceedings, if any, in which applicant was appointed.

(C) With respect to the real party in interest, indicate its full and correct name, business address (street and number, city, State, and zip code), type of entity, and its carrier status.

(D) Court appointment (Exhibit 10). A properly authenticated copy of the order of the court or instrument appointing each trustee, receiver, assignee, or personal representative which is a party to the transaction.

(v) Other authorizing document (Exhibit 11). If paragraphs (i), (ii), (iii), and (iv) are not applicable, indicate identity, structure, statutory or charter powers of applicant, and submit appropriate organizational or authorizing documents, or indicate why none is available or necessary.

(vi) *Corporate chart (Exhibit 12).* Submit a corporate chart indicating all relationships between applicant carriers and all affiliates and subsidiaries and also companies controlling applicant carriers directly, indirectly or through another entity (each chart shall indicate the percentage ownership of every company on the chart by any other company on the chart). For each company include a statement indicating (A) any common officers or directors for every entity on the chart (with reference to the commission decision by docket number and date authorizing the holding of such positions, or an explanation of why such authorization was not requried) and (B) whether each company is a non-carrier or carrier (by railroad, motor, or water, including any Commission certificate or permit number, and the docket number of any proceeding pending before the Commission). Such information may be referenced through notes to the chart.

(vii) If applicant is not a carrier, indicate (A) the type of business in which it is engaged, (B) the length of time so engaged, and (C) the particulars of its present and prospective activities which have or may have a relation to transportation subject to 49 U.S.C. Subtitle IV.

(viii) Indicate whether there are any direct or indirect intercorporate or financial relationships at the time the application is filed, not disclosed in response to prior instructions, through holding companies, ownership of securities, or otherwise, between (A) applicant carriers and any carrier or person affiliated with any carrier or (B) a person affiliated with applicant carriers and any carrier or person affiliated with any other carrier. Indicate the nature and extent of such relationships, if they exist, and, if an applicant carrier owns securities of a carrier subject to, 49 U.S.C. Subtitle IV, provide the carrier's name a description of securities, par value of each class of securities held, and the applicant carriers' percentage of total ownership.

(ix) State the amount of each applicant carriers' outstanding capital stock, by classes, and in connection therewith the par value or stated value of each share, its voting rights, if any, the total number of stockholders of record, and the voting rights of all security holders.

(x) *Annual reports (Exhibit 13).* Submit a properly authenticated copy of the annual report, *if any,* to stockholders or shareholders for each of the two calendar or fiscal years preceding the filing of the application.

(2) *Explanation of the transaction* (i) *Filing resolutions (Exhibit 14).* Submit a copy of all resolutions of directors of each applicant,[4] authenticated by a proper executive officer, authorizing (A) the proposed transaction and (B) where applicable, the filing of the application with the Commission for its approval and authorization. If the charter or by-laws of the applicant require approval of the stockholders, submit a copy of the resolution of stockholders authorizing the proposed transaction and the filing of the application. All resolutions are to be accompanied by sufficient transcripts of the minutes of meetings of the directors or stockholders of the applicant to show the number of shares entitled to vote, the number of shares voted for and against the resolutions, and the numbers of shares/votes required to adopt the resolution.

(ii) *Executing resolutions (Exhibit 15).* Submit a copy of all resolutions of stockholders or directors of the applicant,[5] or duly authorized committee thereof, authenticated by a proper executive officer of the applicant, designating by name and for that purpose the executive officer by whom the application is signed and verified, and filed on behalf of the applicant. For purposes of exhibits 14 and 15, in the event the resolutions of stockholders have not been obtained at the time the application is filed then such resolutions shall be obtained as soon as feasible, but not later than the next regularly scheduled stockholders' meeting. A copy of such resolutions shall be filed with the commission within 30 days following such meeting.

(iii) Other evidence of authorization (Exhibit 16). If the applicant is an organization other than a corporation, submit documentary evidence showing authorization and designation of the individual or individuals signing, verifying, and filing on behalf of the applicant.[6]

§ 1111.3 Traffic data.

The information required in this section should only be filed as part of an application proposing a *major* transaction.

(a) *Density charts (Exhibit 17).* Gross ton-mile traffic density charts shall be filed for applicant carriers containing a map graphically showing principal lines (those handling 1 million gross ton-miles or more per year) and respective densities, expressed in gross ton-miles per year, in each direction, in segments of such lines between major freight yards and terminals, including major

[4] In a control transaction, or in the case of an inconsistent application, petition for inclusion, or other relief requiring that an application be filed with the Commission, resolutions are not required for the party sought to be controlled, or for the party against whom relief is sought.

[5] In a control transaction, or where an inconsistent application, petition for inclusion, or other relief requiring that an application be filed with the commission, resolutions are not required for the party sought to be controlled, or for the party against whom relief is sought.

[6] In a control transaction, or where an inconsistent application, petition for inclusion, or other relief requiring that an application be filed with the Commission, resolutions are not required for the party sought to be controlled, or for the party against whom reljef is sought.

intramodal and intermodal interchange points, using the corporate or political subdivision name of the points shown as well as the railroad station name. The mileage of each segment of line shall be provided, and should be shown on the chart. Data shown in the density chart shall be for the latest available full calendar year preceding the filing of the application.

(b) *Carload interchange data (Exhibition 18).* Revenue carload interchange data between applicant carriers and connecting line-haul rail carriers or water carriers (deleting intermediate switching railroads, if any) shall be in a table setting forth the gateway involved, each connecting line-haul railroad or water carrier, and for each connecting railroad or water carrier the number of interchange carloads originating on applicant carriers' lines, the number of interchange carloads terminating on applicant carrier's line, the overhead traffic delivered or received by applicant carriers, and a separate total of overhead traffic and the total cars interchanged. Gateways to be listed shall be those handling 5,000 or more revenue carloads or 5 percent of total revenue carloads annually, whichever is smaller. Where two or more gateways are contiguous or nearly contiguous, they should be totaled (as examples, Dallas-Fort Worth, Minneapolis-St. Paul, Omaha-Council Bluffs, et cetera). If necessary, such grouped gateways may also be shown separately in supporting tables. Data shown in Exhibit 18 shall be for the latest available full calendar year preceding the filing of the application. It shall be organized as shown in the table in Appendix A.
State-to-State data (Exhibit 19). In a separate table for each of the gateways listed in Exhibit 18 described above, there shall be shown, for each connecting carrier, the origin State, and the destination State and the revenue carloads interchanged. Movements of less than 100 cars per year per connecting carrier need not be included in Exhibit 19. Exhibit 19 shall be organized in the format of the table in Appendix B.

(c) *Carload origin and destination (Exhibition 20).* An exhibit containing revenue carload origin and destination data for the latest available full calendar year preceding the filing of the application, shall list the following:

(1) Points of origin of 5,000 or more revenue carloads or 5 percent or more of applicant carriers' total originated revenue carloads annually, whichever is smaller, broken down to show originations of local and interline carloads for each point, and

(2) Points of destination of 5,000 or more revenue carloads, or 5 percent or more of applicant carriers' total terminated revenue carloads annually, whichever is smaller, broken down to show terminations of local and interline carloads for each point. This data shall include all of applicant carriers' carloads at each point originated or terminated, as the case may be, by a line-haul, terminal, or switching railroad or by a motor carrier performing pickup or delivery service, *except* where such information would identify a specific shipper(s) or a specific receiver(s).

(d) *Freight car fleet (Exhibit 21).* A summary table shall show the freight car fleet cars owned and leased by applicant carriers indicating by year for the first, fifth, and tenth years preceding the filing of the application, the number of box, flat (including rack cars), gondola, open hopper, covered hopper, refrigerator, miscellaneous, and total number of cars owned and leased, and the aggregate capacity of these cars.

(e) *Revenue freight traffic (Exhibit 22).* A table shall show the applicant carriers' revenue freight traffic, indicating by year, for the first, fifth and tenth years preceding the filing of the application, (1) the number of local, interline originated, interline terminated, overhead, and total carloads, (2) total revenue tons, (3) revenue ton-miles, and (4) total freight revenue.

(f) *Commodity revenue (Exhibit 23).* A table shall show commodity group revenue (at the two-digit level of the STCC) for the 5 largest revenue producing commodity groups as a percentage of total revenue for the first, fifth and tenth year preceding the filing of the application, indicating for each year the 5 largest commodity groups, the revenues attributable to each group and the percentage of that group's revenue as it relates to total revenue.

(g) *Commodity tonnage (Exhibit 24).* For the *commodity groups shown in the table required in F above,* a table shall show commodity group tonnage as a percentage of total tonnage, for the first, fifth, and tenth years preceding the filing of the application, indicating by year the various commodity groups, the tonnage attributable to each group and the percentage of that group's tonnage as it relates to total tonnage.

Note.—For each of items (d)–(g), above, separate tables should be prepared covering, where appropriate, similar data for class I railroad subsidiaries and for predecessor railroads, if any, in existence during the first, fifth or tenth years preceding the filing of the application. In addition, if applicant consummated a consolidation during this ten-year period, similar data should also be shown for the first full calendar year of operation following consummation.

(h) *Traffic study (Exhibit 25).* The traffic study shall be prepared to show the estimated gains (or losses) in traffic and revenue resulting from the proposed transaction for applicant carriers and affected railroads. The traffic study results for applicant carriers shall also serve as a basis for determining the changes in operations shown in Exhibit 27. Preparation of the traffic study shall be in conformity with the instructions that follow.

(1) The period covered by the traffic study shall be for the latest full calendar year[7] for which data are available preceding the filing of the application. *All* other traffic studies filed by *any* party to the proceeding shall be based on the same calendar year, but need not use the same basis for the calendar year, as the traffic study accompanying the application *and are subject to the rules for Exhibit 25.*

(2) The railroad performing the traffic study must sample *all* of the traffic it handled in the study year with the following exceptions: (i) local traffic need not be sampled and (ii) in the case of applicant carriers, interline traffic handled *only* by applicant carriers in line-haul service need not be sampled unless the transaction involves only a portion of a railroad (*e.g.,* a line purchase or trackage rights) or is desired for the purpose of developing the Proposed Operating Plan (Exhibit 27). The traffic study shall utilize probability sampling techniques and shall include a full explanation of the sample as described in "Guidelines for the Presentation of the Results of Sample Studies," February 1971, published by the Commission's Bureau of Economics, or any superseding publications. The sampling rate chosen should be large enough to produce a sufficiently small standard error to allow accurate estimates of revenue changes and small enough to be manageable in terms of the data evaluation requirements under (3), below. Once the sample has been obtained, movements in the sample considered to be irrelevant to the proposed transaction may be deleted. Printouts of information on the deleted movements sufficient to identify them must be maintained at the headquarters of the party making the study and be open to inspection by the Commission's staff and by other carriers which are parties to the proceedings and have a

[7] The basis for the calendar year shall be described, whether it is based on settlement date, movement date, accounting date, or any other date.

legitimate interest in such movements. The railroad performing the traffic study shall prepare and make available the complete information specified under (3) below, for the deleted movements at the request of the Commission's staff and parties to the proceeding having a legitimate interest in them.

(3) At a minimum, the evaluation of sample movements shall be based on the *data* listed in Appendix C. These *data* and any additional information relied upon for the evaluations shall be reproduced totally on Study Movement Sheets (SMS). An SMS shall be prepared for *each* sample movement *whether or not a gain (or loss) has been determined.* Documents, including but not limited to waybills, from which *data* have been extracted and placed on an SMS or considered in making a determination of divertibility, are considered work papers. Work papers are not to be filed with the application but must be made available, on request, to the Commission's staff and to parties to the proceeding having a legitimate interest in them.

The *minimum data* required are shown in Appendix C in the suggested format for a Study Movement Sheet. This format should be followed as closely as practicable (particularly the use of only one sheet). It is recognized that, is some instances, the data requied above for the SMS may not be readily available. In those instances, the party performing the study must use its *best* efforts to obtain the *data, e.g.,* in the case of overhead traffic, the waybill data may be obtained from the terminating carrier. When the required data cannot be obtained, a separate statement should be prepared describing the missing data and reference should be made to the SMS where the data were omitted.

(4) The traffic study shall include a separate statement showing *all* written instructions, if any, for determining the amount of gains (or losses). *All* instances where those instructions were not followed, but were subordinated to other, unwritten instructions, shall be clearly shown, together with reference in each instance to the appropriate SMS. The written instructions and the reasons for the deviation shall be stated.

(5) If specific percentages (less than 100%) are applied to represent the amount of gains (or losses) on movements, the criteria used to arrive at such percentages shall be stated precisely.

(6) The traffic study shall include a statement showing the name and title of (i) the person or persons making the initial determination of gains or losses, if any; (ii) the person or persons making the final determinations; and (iii) the method used to resolve any conflicting determinations between the initial and final determinatins. The final evaluator(s) shall submit a verified statement that he (they) personally evaluated all movements.

(7) Traffic study results—applicant carriers: The estimates of gains or losses in traffic and revenue shall be broken down separately for each connecting carrier as follows:

(i) Interline originated traffic by off-junction with connecting carrier.

(ii) Interline terminated traffic by on-junction with connecting carrier.

(iii) Overhead traffic by on-or-off junction with connecting carrier.

To the extent known, the gain or loss estimates for each non-connecting carrier participating in the movement under (i), (ii), and (iii) above, should be listed. The participating carriers in this instance are those which do not connect directly with applicant carriers, but which have a portion of the haul prior to or subsequent to the portion performed by the "connecting carrier."

(8) *Traffic study results—non-applicant carriers:* The gains (or losses) in traffic and revenue shall be broken down separately, showing gains from or losses to applicant carriers only, at each gateway with applicant carriers at which the gain or loss occurs, and classified as interline originated, interline terminated, or overhead movements to the non-applicant carrier performing the study. Local traffic gains or losses should be shown as a separate total.

(9) *Traffic study summary—all carriers:* A statement shall be prepared showing the gross revenue gains (or losses), the estimated cost of handling the gained or lost traffic, and the net revenue gain or loss thus derived, including a detailed description of the methods used to compute the estimated cost of handling the traffic.

(10) Under 49 U.S.C. 11910(a)(1), the disclosure of certain traffic information is prohibited without the consent of the shipper or consignee when "that information may be used to the detriment of the shipper or consignee or may disclose *improperly,* to a competitor the business transactions of the shipper or consignee. . . ." (Emphasis added). The voluntary exchange of traffic data to prepare an application under 49 U.S.C. 11344 or 11346 is a proper disclosure which by itself would not constitute a violation of 49 U.S.C 11910. Any misuse of that data, for purposes other than that for which it was obtained, would violate the statute.

(11) *Non-rail traffic study (Exhibit 26).* Traffic diversions from non-railroad modes of transportation *may* be shown in a statement estimating gross revenue gains from other modes of transportation (on traffic in which applicant carriers do *not* presently participate) developed from any study (*e.g.,* a market study) conducted by applicant carriers. Sufficient information about the study must be submitted with the application so that its validity can be evaluated. The filing of this study is within applicant's discretion.

§ 1111.4 Operational data.

(a) *For major transactions: Operating plan (Exhibit 27).* Submit a complete description of the proposed operating plan to be effectuated upon approval of the transaction. This shall provide data, projected at *least* 3 years, but not less than the time required to complete rehabilitation, upgrading or other major operational changes following consummation of the proposed transaction, describing the following aspects of the operating plan:

(1) The patterns of service on the properties, including the proposed principal routes, proposed consolidations of main-line operations, and anticipated traffic density and general categories of traffic on all main and secondary lines in the system.

(2) The basic operating and train blocking plan of the system, including the identification of system classification yards, and the anticipated workload of such yards, supported by a proposed blocking plan based on projected origin and destination traffic data.

(3) The location of existing shops and repair facilities, and identification of major installations to be discontinued, and a description of the system repair functions of each remaining facility.

(4) If commuter or other passenger services are operated over the lines of applicant carriers, detail any impacts anticipated on such services, including delays which may be occasioned because a line is scheduled to handled increased traffic due to route consolidations.

(5) The equipment requirements of the proposed system, including locomotives, rolling stock by type, and maintenance-of-way equipment; plans for acquisition and retirement of equipment; and projected improvements in equipment utilization, together with an explanation of the operating changes that will cause such improvements.

(6) The extent to which deferred maintenance or delayed capital improvements apply to any road or equipment properties involved, and the schedule for eliminating such deferrals. Also details of general system

rehabilitation, specific rehabilitation relating to the transaction, and upgrading plans including proposed yard and terminal modifications, together with an estimate of anticipated service improvements or operating economies associated with such projects.

(b) *For minor transactions: Operating plan-minor (Exhibit 28).* Submit information and data, projected at *least* 3 years following the consummation of the proposed transaction, describing the following aspects of the operating plan:

(1) Any significant changes in patterns of service.

(2) Traffic level and density on lines proposed for joint operations.

(3) Impact on the use of yards or shop facilities and any necessary modifications to yards or terminals.

(4) Impacts on commuter or other passenge service operated over a line which is to be downgraded, eliminated, or operated on a consolidated basis.

(5) Operating economies, which include, but are not limited to estimated savings.

(6) Any associated discontinuances or abandonments.

§ 1111.5 Financial information.

(a) The following information shall be provided for *all* transactions:

(1) *Property values (Exhibit 29).* Value of each of the properties involved in the proposed transaction as found by the Commission or, if such value has not been found by the Commission, then the fair market value of the properties as independently appraised for the purposes of the proposed trnasaction, and, separately, the net cost of additions and betterments made after the date of valuation or appraisal.

(2) *Securities value (Exhibit 30).* The market value of any securities acquired or proposed to be acquired in consummating the proposed transaction or, if there is no ascertainable market value, the estimated value, giving the basis of the estimate.

(3) *Property encumbrance (Exhibit 31).* If any of the property covered by the application is encumbered and applicant has agreed to assume obligation or liability in respect thereof.

(i) A description of the property encumbered.

(ii) Amount of encumbrance and full description thereof, including maturity, interest rate, and other terms and conditions.

(iii) Amount of encumbrance assumed or to be assumed by applicant.

(b) The following information shall be provided for all *major* transactions:

(1) *Balance sheets (Exhibit 32).* General balance sheets,[8] as appropriate, of the following:

(i) Transferee on a corporate entity basis.

(ii) Transferee's parent company on a corporate entity basis.

(iii) Each subsidiary of transferee on a corporate entity basis.

(iv) Transferee and subsidiaries on a consolidated basis.

(v) Transferor on a corporate entity basis.

(vi) Each subsidiary of transferor on a corporate entity basis.

(vii) Transferor and subsidiaries on a consolidated basis.

(2) *Pro forma balance sheets (Exhibit 33).* Where the transaction involves a proceeding other than a control,[9] submit a *pro forma* balance sheet statement giving effect to the proposed transaction for the year as of the date of the traffic study in Exhibit 25. The *pro forma* data shall be presented in columnar form showing (i) in the *first* column the balance sheet of transferee on a corporate entity basis, (ii) in the *second* column a balance sheet of transfereor, on a corporate entity basis, (iii) in the *third* column *pro forma* adjustments and eliminations, and (iv) in the *fourth* column, transferee's balance sheet "giving effect" to consummation of the proposed transaction. Each adjustment and elimination shall be properly footnoted and fully explained. A *pro forma* balance sheet shall be submitted for the number of years following consummation necessary to effect the operating plan.

(3) *Income statements (Exhibit 34).* Income statements,[10] as appropriate, of the following:

(i) Transferee on a corporate entity basis.

(ii) Transferee's parent company on a corporate entity basis.

(iii) Each of transferee's subsidiaries on a corporate entity basis.

(iv) Transferee and subsidiaries on a consolidated basis.

(v) Transferor on a corporate entity basis.

(vi) Each of transferor's subsidiaries on a corporate entity basis.

(vii) Transferor and subsidiaries on a consolidated basis.

(4) *Pro forma income statements (Exhibit 35).* Where the transaction involves a proceeding other than a control,[11] submit a *pro forma* income statement showing transferee's estimate of revenues, expenses, and net income for at least each of the 3 years following consummation [12] of the transaction. The *pro forma* data shall be presented in columnar form, showing (i) in the *first* column transferee's actual income statement on a corporate entity basis for the year as of the date of the traffic study in Exhibit 25, (ii) in the *second* column a similar income statement for the transferor, (iii) in the *third* column forecasted adjustments to the combined revenues, expenses, and net income to reflect increases or decreases anticipated under the unified operation, and (iv) in the *fourth* column a compilation of the first three columns into a *pro forma* income statement. This information will be submitted for at least each of the three years following the proposed consummation of the transaction. The adjustments are to be supported by a statement explaining the basis used in determining the estimated changes in revenues, expenses, and net income appearing in the *third* column. Additionally, if the major financial advantage to be derived from the proposed transaction will not occur within the above-prescribed period, then applicant shall furnish additional information to reflect the number of

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[8] All statments requested in (a–g) shall show the latest available data, not exceeding 6 months prior to the filing of the application.

[9] Where the purchase of a line or line segment is involved, a procedure utilizing three columns should be followed. The *first* column should show transferee's actual balance sheet on a corporate entity basis for the latest available 12-month period, the *second* column should show the adjustments necessitated by the purchase, and the *third* column is a compilation of the first two columns into a *pro forma* balance sheet.

The transferor shall file a balance sheet similar to the one filed by the transferee, with the *second* column reflecting the adjustments resulting from the sale.

If the parent company (if any) of the transferee or transferor is affected, a similar balance sheet shall be filed for each.

All adjustments to these balance sheets shall be supported in footnotes to the appropriate balance sheet.

[10] All statements requested in items (a–g) are to be for each of the immediately-preceding 3 calendar years, which may include, for the most recent calendar year, the months or quarters then available (preferably to the date of the balance sheet).

[11] Where the purchase of a line or line segment is involved, a procedure utilizing three columns should be followed. The *first* column should show transferee's actual income statement on a corporate entity basis for the latest available 12-month period, the *second* column should show the adjustments necessitated by the purchase, and the *third* column is a compilation of the first two columns into a *pro forma* income statement.

The transferor shall file an income statement similar to the one filed by the transferee, with the *second* column reflecting the adjustments resulting from the sale.

If the parent company (if any) of the transferee or transferor is affected, a similar statement shall be filed for each.

All adjustments to these income statements shall be supported in footnotes to the appropriate income statement.

[12] If the operating plan requires more than three years to be put into effect, the *pro forma* income statement shall be prepared for as many years as necessary to implement fully the operating plan.

years within which the financial advantages will be realized. The basis for all such data furnished shall be fully explained and supported.

(5) *Sources and application of funds (Exhibit 36).* Transferor's and transferee's statement of sources and application of funds for the current year, and a forecast [13] of source and application of funds for each carrier (if a merger or consolidation, the surviving or resulting corporation) for the year following consummation of the proposed transaction, and years necessary to effectuate the operating plan.[14] The form and content of these statements should be constructed in accordance with schedule 240, "Statement of Changes in Financial Position" required in the most recently filed Annual Report R–1 for Class I Railroads.

(c) The following information shall be provided for all *minor* transactions;

(1) *Balance sheets-minor (Exhibit 37).* General balance sheets for the latest calendar year for applicant and applicant's parent on a corporate entity basis.

(2) *Income statements-minor (Exhibit 38).* Income statements for the latest calendar year for applicant and applicant's parent on a corporate entity basis.

§ 1111.6 Procedures.

(a) *General.* (1) Any document filed with the Commission, including applications, pleadings, etc., shall be promptly furnished to interested persons on request, unless subject to a protective order. At any time, the Commission may require the submission of additional copies of any document previously filed by any party to the proceeding.

(2) The Commission shall prepare and serve a service list on all persons who have indicated an interest in the proceeding 55 days after the application has been accepted. From time to time, this service list will be revised.

(3) The original and 20 copies of all documents shall be filed in *major* proceedings. The original and 10 copies shall be filed in *minor* proceedings.

(4) Each party to a proceeding shall choose a unique acronym of four letters or less for itself. It shall number each document filed in the proceeding consecutively, prefixed by its acronym.

(b) *Pre-filing notification.* (1) Between three to six months prior to the proposed filing of an application in a *major* proceeding, applicant shall file a notice with the Commission. The notice shall:

(i) Briefly describe the transaction,

(ii) Indicate the year to be used for the Traffic study,

(iii) Indicate the approximate filing date of the application, and

(iv) Indicate why the transaction is *major.*

(2) The Commission will publish a notice in the **Federal Register** within 30 days of the filing of the applicant's notice. The notice to be published shall contain:

(i) A brief description of the transaction,

(ii) The year to be used for the Traffic study,

(iii) The approximate filing date, and

(iv) A determination if the transaction is *major.*

(c) *Application.* (1) There is a $700 filing fee to file an application with the Commission under these procedures (this may be referred to as the primary application to distinguish it from inconsistent, inclusion, or other directly related applications). There is no filing fee for a directly related application, or for a responsive application (*e.g.*, a petition for inclusion, an inconsistent application, or any other application seeking affirmative relief).

(2) *Filing.* (i) The original of all applications shall be signed in ink by the applicant, if an individual; by all partners, if a partnership; and if a corporation, association, or other similar form of organization, by its president, or such other executive officer having knowledge of the matters therein contained and duly designated for that purpose by the applicant. Applications shall be made under oath and shall contain an appropriate certification (if a corporation, by its secretary) showing that the affiant is duly authorized to verify and file the application. Any person controlling an applicant shall also sign the application.

(ii) The application shall be filed with Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

(iii) Each copy of the application shall conform in all respects to the orginal and shall be complete in itself except that the signature in the copies may be stamped or typed and the notarial seal may be omitted. In like manner where certified copies of documents are filed with the original application, conformed copies thereof, showing certification in stamped or typewritten form, will be sufficient to accompany the additional copies of the application.

(iv) All applications required to be filed with the Commission or served on designated persons shall include all exhibits, except as otherwise specifically noted.

(v) The applicant shall submit such additional information to support its application as the Commission may require.

(vi) Applicant shall file concurrently with applications under sections 11344 and 11346 all directly related applications, *e.g.*, those seeking authority to construct or abandon rail lines, to issue securities, control motor carriers, obtain terminal operations, acquire trackage rights, etc.

(vii) Exceptions to required exhibits (A) The original and one copy of Exhibit 18 shall be filed with the Commission. Copies shall be maintained at applicants' headquarters for inspection by interested parties. Applicants must also file with the Commission one copy of a machine readable tape containing *only* the data shown in Exhibit 18. This tape will be returned to applicants when the Commission issues its decision, and no use of the tape will be made by the Commission other than for the purpose of adjudicating the application.

(B) The original and one copy of the SMS used in Exhibit 25 shall be filed with the Commission. Copies of the SMS need not be included as part of the exhibits to the copies of the application furnished to the Commission or served upon designated persons. A conformed copy of the SMS shall be maintained at the principal place of business of the carrier performing the study and shall be made available upon request to parties in the proceeding.

(viii) The application shall contain a certificate of service indicating that all persons designated in 1111.6(c)(5) have been served a copy of the application.

(3) In a *major* transaction, and in all responsive applications, all of the direct testimony of applicants in the form of verified statements, shall be filed and served with each application.

(4) The application and all exhibits shall be considered part of the evidentiary record upon acceptance. Any portion of an application, and exhibits will remain subject to motions to strike. However, no motion need be made to have the application and exhibits admitted to the evidentiary record.

If a major transaction is designated for oral hearing the presiding Administrative Law Judge shall have discretion in extraordinary circumstances to allow for the presentation of oral or written direct testimony not previously submitted with the application.

(5) *Service.* (i) The applicant shall serve a conformed copy of an

[13] The forecast should reflect only changes anticipated to result from the proposed transaction. Forecasts are not required to reflect general economic conditions unrelated to the proposed transaction.

[14] The *pro forma* balance sheets (Exhibit 33), *pro forma* income statements (Exhibit 35), and sources and application of funds (Exhibit 36) shall cover the same years.

application filed under these procedures by first class mail upon:

(A) The Governor (or Executive Officer), Public Service Commission, and the Department of Transportation of each State in which any part of the properties of the applicant carriers involved in the proposed transaction is situated;

(B) The United States Secretary of Transportation [Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Room 5101, 400 Seventh Street, SW., Washington, D.C. 20590], except where the Secretary is the proposing party;

(C) The Attorney General of the United States;

(D) The Federal Trade Commission; and

(E) In *major* transactions, all carriers listed in the Traffic study (Exhibit 25).

(ii) The applicant shall serve a conformed copy of an application filed under 49 U.S.C. 11346 by first class mail on the Secretary of Labor in addition to the parties in (5)(i) above.

(6) *Application format.* (i) The application shall be in the same sequence as the information is requested in these procedures, and shall be numbered to correspond to the numbering in the procedures.

(ii) If any material required in the application would lend itself to being placed in an appendix, this should be done. The appendix and application shall be tabulated and cross-referenced in an index for ease in locating and referring to the information. The appendices shall be in the same sequence as the information is required by the regulations. The application should be bound, and it may be bound in more than one volume. If an application is more than one volume, the cover of each volume should be in a different color. The pages in each volume should begin with 1, and shall be sequentially numbered.

(iii) If a question arises regarding an interpretation of the information or format to be included in the application, the party may contact the Commission for assistance.

(iv) All filing, service, or other requirements of these procedures must be complied with when filing the application. Copies of the application filed with the Commission shall be marked in red "Railroad Consolidation Application" on the transmittal envelope or package.

(7) Acceptance or rejection of an application. (i) The Commission shall accept a complete application no later than 30 days after the application is filed with the Commission by publishing a notice in the **Federal Register.** A complete application contains all information for all applicant carriers required by these procedures, except as modified by advance waiver.

(ii) The Commission shall reject an incomplete application by serving a decision no later than 30 days after the application is filed with the Commission. The decision shall give specific reasons why the application was rejected, and specify where the application was incomplete. A revised application may be submitted, incorporating portions of the prior application by reference, and the Commission will determine whether the resubmitted application conforms with all prescribed regulations. The resubmission or refiling of an application shall be considered a de novo filing for the purpose of computation of the time periods, provided that the resubmitted application is accepted.

(d) *Response to application*—(1) *Written comments.*

(i) Written comments must be filed no later than 45 days after an application is accepted.

(ii) Written comments shall be concurrently served by first class mail on:

(A) The applicants (at each address given in the application),

(B) The United States Secretary of Transportation,

(C) The Attorney General of the United States, and

(D) All parties of record within 10 days of service of the service list by the Commission.

(iii) Written comments must contain:

(A) The docket number and title of the proceeding.

(B) The name and address of the commenting party.

(C) The name, address, and telephone number of the commenting party's representative upon whom service shall be made.

(D) The commenting party's position (in support, opposition, or undetermined).

(E) If the commenting party intends to participate formally in a proceeding or merely comment upon the proposal.

(F) If desired, a request for an oral hearing and supporting reasons.

(G) A list of all information sought to be discovered from applicant carriers.

(H) Railroads filing written comments must submit.

(*1*) Any exsiting perferential solicitation agreements.

(*2*) A list of all run through train operations.

(*3*) An initial list of specific protective conditions sought and wether the commenting railroad intends to file inconsistent applications, petitions for inclusion, trackage rights, or any other affirmative relief requiring an application to be filed with the Commission, along with a description of the proposed transactions.

(I) An initial list of specific protective conditions sought by non-railroads.

(iv) All persons who file timely written comments shall be a party of record if they so indicate in their comments. In this event, no petition for leave to intervene need be filed.

(2) The Secretary of Transportation and Attorney General of the United States shall file written comments with the Commission within 60 days of the date of acceptance of the application. These comments shall contain the information in (d)(1)(iii). Copies of these comments shall be concurrently served by first class mail on:

(i) The applicants,

(ii) The parties to the proceeding who have filed written comments, and

(iii) The Attorney General of the United States or Secretary of Transportation (whichever applies).

(3) A second list of protective conditions shall be filed with the Commission within 75 days of acceptance of the application. It shall be concurrently served by first class mail on all parties of record. The second list of protective conditions shall modify the first list based upon changing conditions, such as protective conditions sought by other parties to the proceeding. Parties to the proceeding shall not be permitted to seek any protective conditions not contained in the second list of protective conditions. This does not preclude refinements in conditions sought particularly when stipulations to conditions are reached.

(4) All responsive applications shall be filed within 90 days after the primary application has been accepted. This includes inconsistent applications, petitions for inclusion, and any other affirmative relief that requires an application to be filed with the Commission (such as trackage rights, purchase, purchase of a portion, acquisition, extension, construction, operation, pooling, terminal operations, abandonment, etc.) These applications shall comply as fully as possible with any appropriate Commission regulations, and are presumed to be major market extensions. Any petition for waiver, clarification, or extension of time (of up to 90 days to complete the application) shall be filed no later than 45 days before the application is due to be filed. A petition seeking to rebut the presumption of a major market extension must also be filed at least 45 days in advance of the filing of the

application. Each responsive application filed and accepted (if required) is considered consolidated with the primary application.

(5) In order for a protestant to question the accuracy of diversion estimates, other than through cross-examination, it must prepare and file with the Commission a traffic study that complies with the requirements of § 1111.3(H). This traffic study must be filed within 90 days after the primary application is accepted.

(e) The Commission may order an oral public hearing or a hearing by written submissions. The determination may be made on the basis of written comments. Generally, designation will be made on the basis of indications of a need for hearing.

The Commission will conclude the oral hearing, hearing by written submission, or other evidentiary proceeding within 240 days following the date the application is accepted, except where the transaction involves the merger or control of more than one class I railroad, in which case the evidentiary hearing shall be concluded not more than 24 months following the date the application is accepted. The Commission will issue a final decision by the 180th day after the conclusion of the evidentiary proceedings. The Secretary of Transportation may propose modifications to any transaction and shall have standing to appear before the Commission in support of any such proposed modification.

These time limits begin to run when the primary application is accepted. They apply to all consolidated cases.

(f) *Waiver or clarification.* (1) Upon petition of a prospective applicant, the Commission may waive or clarify a portion of these procedures. A petition to waive *all* of the procedures will not be entertained.

(2) Petitions for waiver or clarification must be filed a least 45 days before the application is filed.

(3) No replies to a petition for waiver will be permitted. An exception to this will be made where a proceeding involving the same parties and a related transaction is pending before us. In that case, the petition shall be served by first class mail on all parties to the pending proceeding, with a reply due within 10 days of service.[15]

(4) A waiver of clarifiction granted to any applicant in a proceeding shall apply to any other applicants filing directly related applications or responsive applications.

(5) All petitions for waiver, clarification or extension shall be ruled upon by the *entire* Commission.

(6) A petition for waiver or clarification must specify the sections for which waiver or clarification is sought and give the specific reasons why each waiver or clarification is necessary.

(g) *Notice of exemption.* (1) In order to qualify for an exemption under § 1111.2(C), a railroad must file a notice of the transaction with the Commission on the day the transaction is consummated.

(2) The notice shall contain the information required in § 1111.2(a)(1)(i-iii), (2)i–iii, and (3)(i).

(3) The Commission shall publish a notice in the **Federal Register** within 30 days of the filing of the notice of exemption. If the notice of exemption contains false or misleading information which is brought to the Commission's attention, the Commission shall summarily revoke the exemption for that carrier and require divestiture.

(h) *Special procedures for applications filed under 49 U.S.C. 11346.* (1) An applicant which has filed, or prepared for filing, a merger or consolidation proposal with the U.S. Department of Transportation pursuant to section 11346 may submit a copy of that proposal in partial satisfaction of the information requirements of the application.

An applicant following this course of action shall provide cross-references to the accompanying proposal indicating specifically those portions which contain the information required under each applicable section of the procedures.

(2) In initiating a transaction under 49 U.S.C. 11346, any railroad or the Secretary of Transportation may use the procedures, provided:

(i) The transaction involves a merger, consolidation, unification, or coordination project (as described in section 5(c) of the Department of Transportation Act), joint use of tracks or other facilities, or acquisition or sale of assest;

(ii) The transaction has been proposed (A) by the Secretary of Transportation, with the consent of the railroads which are parties to the transaction, or (B) by any railroad which, not less than 6 months prior to such submission to the Commission, submitted the proposed transaction to the Secretary of Transportation for evaluation pursuant to 49 U.S.C. 11346(3)(f); and

(iii) The application is filed on or before December 31, 1981. At the time an application is filed with the Commission pursuant to 49 U.S.C. 11346, notice of the filing of the application shall be furnished to the Secretary of Transportation by the proposing party, except where the Secretary is the proposing party.

(3) *Report of the Secretary of Transportation.* The Secretary of Transportation shall submit a written report on the proposed transaction to the Commission, in accordance with 49 U.S.C. 11346(f)(v), within 10 days from the date of submission of an application to the Commission.

(4) Written comments shall comply with § 1111.6(d)(1), but must filed within 30 days of the applications acceptance and must be served on the Secretary of Labor.

(5) *Public hearings.* The Commission shall commence a public hearing on each application filed under this section within 90 days after the date of receipt of the complete application. The hearing shall be held before a panel of the Commission duly designated by the Commission. The panel shall request the views of (i) the Secretary of Transportation, regarding the effect of the proposed transaction upon the national transportation policy as stated by the Secretary, (ii) the Attorney General, regarding the competitive or anticompetitive effects of the proposed transaction, and (iii) the Secretary of Labor, regarding the effects of the proposed transaction on railroad employees and whether the employee protective provisions contained in the proposal are adequate. Within 35 days after receipt of the request or within such other reasonable time as the panel may prescribe, the views of the three above-named persons shall be submitted to the Commission in a written report. At the same time that each such report of the Secretary of Transportation, the Attorney General, and the Secretary of Labor is submitted to the Commission, the persons submitting such report shall serve, by first-class mail a copy of the report upon all parties of record to the proceeding, and shall so certify to the Commission. The designated panel shall complete the public hearing within 180 days after the date of referral of an application to the panel, and the panel may, in order to meet the requirements of the statute, prescribe rules and make such rulings as may tend to avoid unnecessary cost or delay. The panel shall recommend a decision and certify the record to the full Commission for final decision within 90 days after the termination of the hearing. The full Commission shall hear oral argument on the matter so certified, and it shall render a final decision

[15] *See Itel Corp.—Control—Green Bay and W. R. Co.*, 354 ICC 232, 233 (1978).

within 120 days after receipt of the certified record and recommended decision of such panel. The Commission may, in its descretion, entend any time period set forth in this paragraph, except that the final decision of the Commission shall be rendered not later than the second anniversary of the date of receipt of such an application by the Commission.

§ 1111.7 Definitions.

(a) *Applicant.* The parties initiating a transaction (except where the Secretary of Transportation proposes a transaction under 11346).

(b) *Applicant carriers.* Applicant, all carriers related to the applicant, and all other carriers involved in the transaction.

(c) *Major market extension.* A major market extension includes an end-to-end extension of applicant carriers' routes and services and applicant carriers' participation in additional through routes or joint rates. A major market extension may also significantly increase competition by (1) extending service into a new market or (2) providing significantly more efficient and effective competitive service to a market presently being served. Criteria which can be used to determine if a railroad is proposing to provide a more competitive service to a currently served area include (i) whether or not a shorter route is involved, (ii) if the new route provides faster service, (iii) if this route extends into major markets, (iv) under what conditions the application is filed, and (v) if the route may make the railroad competitive.

See, *Burlington Northern, Inc.—Control & Merger—St. L.*, 354 ICC 616, 617 (1978).

(d) *Railroad.* Any common carrier by railroad as defined in 49 U.S.C. 10102 (17)–(18).

(e) *Transferee.* The transferee is:

(1) The acquiring corporation in a control proceeding,

(2) The surviving corporation in a merger,

(3) The resulting corporation in a consolidation,

(4) The lessee in a lease, and

(5) The purchaser in an acquisition.

(f) *Transferor.* The transferor is:

(1) The corporation acquired in a control proceeding,

(2) The merging corporation in a merger,

(3) All corporations to be consolidated in a consolidation,

(4) The lessor in a lease, and

(5) The seller in an acquisition.

§ 1111.8 [Reserved]

§ 1111.9 [Reserved]

§ 1111.10 General policy statement.

(a) *General.*—The Interstate Commerce Commission encourages the rationalization of railroad facilities and the reduction of excess rail capacity through private industry initiatives rather than active Government intervention. The Commission favors consolidations where operating efficiencies will occur, marketing opportunities will be enhanced, essential rail services will be retained, and competition will not be unnecessarily diminished. The Commission also encourages other means of attaining these ends, including the joint use of rail facilities and the use of run-through trains. It does not favor rail industry restructuring through the exercise of managerial and financial control unless the controlling entity assumes full responsibility for carrying out the operating railroad's common carrier obligation to provide adequate service upon reasonable demand.

(b) *Consolidation criteria.*—The Commission's consideration of rail consolidation proposals is governed by the criteria prescribed in sections 11344 and 11346 of the Interstate Commerce Act and by the national transportation policy set forth in section 10101 of the act. In addition to the statutory criteria, the Commission will consider:

(1) *Whether essential rail services will continue* to be provided, either by the consolidating companies or by other railroads which may be affected by the consolidation ("essential services" include, but are not limited to, those required by the national defense and those shown necessary to achieve other established national goals, such as energy conservation and rural and community development);

(2) Whether opportunities to achieve *operating efficiencies* will be increased;

(3) Whether *redundant facilities* will be eliminated;

(4) Whether the ability of the consolidated system to *attract new business* will be enhanced;

(5) Whether the consolidated company will be *financially viable;*

(6) Whether effective *inter- and intramodal competition will be maintained* wherever economic realities make it possible; and

(7) Whether there will be any adverse impact on the *environment* of the region served.

(c) *Public interest considerations.*—Individual rail consolidation proposals may have a profound impact upon the national rail system. The Commission will examine each proposal in light of the significant public policy issues raised. In deciding whether to approve a railroad consolidation application the Commission will examine the effect which the proposed consolidation would have on the total rail system and the needs of the users of rail service. Proposals which fail to take advantage of potential long-run efficiencies, or to provide for the utilization of the most efficient and best located rail facilities, may be denied as not being in the public interest, or approved only subject to conditions. The Commission interprets the public interest tests under sections 11344 and 11346 of the act to be the same.

(d) *Public participation.*—In an effort to assure a fully developed record on the impacts of a proposed railroad consolidation, the Commission will—

(1) Encourage participation in railroad consolidation proceedings by *other Government departments* and agencies, particularly those with direct responsibility for issues related to the Nation's defense needs, transportation policies, environmental and energy policies, rural and urban needs, employment policies, and business development;

(2) Encourage participation by *State and local governments and regional and local planning bodies;*

(3) Permit participation by *interested persons;*

(4) Assure that environmental and energy issues are adequately addressed; and

(5) Provide, if necessary, for the intervention of *Commission staff* to develop the record.

(e) *Inclusion of other carriers pursuant to section 11344(c).*—(1) *The Commission believes that the railroad consolidation process should not be used as a means for preserving the systems of financially weak and marginal railroads or for protecting them from undergoing reorganization,* if necessary, under the bankruptcy laws. *The Commission is concerned with the preservation of service, not of companies* or railroad systems, and will, therefore, use its powers to condition approval of a railroad consolidation upon the acceptance of inclusion of all or parts of other railroad systems only when it can be shown that there is no other reasonable alternative for preserving essential services; that the facilities to be included fit operationally into the new system; and that inclusion can be accomplished without endangering the operational or financial success of the new company. Application of these criteria will mean that requests for inclusion of an entire railroad system are less likely to be successful than those offering more limited, and clearly identified, facilities

for acquisition by the railroad consolidation partners.

(2) The Commission recognizes that a particular consolidation of strong carriers could worsen the condition of other railroads to the extent that they could not survive. In such a situation, the Commission will attempt to assess the impact of a particular carrier's being forced into reorganization or having to terminate service. If it appears that the end result of a proposed railroad consolidation would be the permanent cessation of essential services by some other railroad, the Commission may deny the consolidation application or condition its approval upon the willingness of the applicants to restructure their proposal.

(f) *Labor protection.*—The Commission encourages voluntary negotiation of labor protective conditions in individual rail consolidation proceedings. The Commission will, however, review negotiated agreements to assure that they provide adequate protection for railroad employees and do not jeopardize the future viability of the consolidated company. In the absence of a negotiated settlement, labor protective conditions will normally provide for protection at the level mandated by law, unless it is proven that more stringent protection is required to provide a fair and equitable arrangement to protect the interests of the railroad employees adversely affected.

(g) *Procedures.* (1) Generally the Commission will consider applications on an individual basis in order to expedit the proceeding and insure compliance with the statutory time limits. However, related applications by protestants seeking protection from the proposed consolidation will normally be consolidated with the primary application. Other related applications, such as those seeking inclusion or trackage rights, may also be consolidated. Other applications in the same geographic area may be consolidated when appropriate, if they are in similar procedural stages, have common parties, and involve potential cumulative and crossover effects on those parties.

(2) The Commission will not accept petitions for inclusion in proceedings governed by section 11346 of the act. If, however, the record in such a proceeding showed that a transaction would be in the public interest only if some or all of another carrier's system were included to preserve essential rail services, the Commission would consider conditioning its approval of the transaction on the inclusion.

(3) The Commission will accept applications for control under section 11346 of the act, in addition to the transactions specified in that section.

(h) *Expiration date.*—Unless previously extended by the Commission, this section expires (5 years from the date of publication in the **Federal Register**).

APPENDIX A.—*Exhibit 18—Revenue Carloads Interchanged, Calendar Year*

Gateway and connecting line-haul railroad or water carrier	Applicant's revenue carloads					
	Originated on applicant's line	Terminated on applicant's line	Overhead (bridge)			Total cars interchanged
			Delivered by applicant	Received by applicant	Total	
Point A:						
Carrier X	1,000	1,000	1,000	1,000	2,000	4,000
Carrier Y	.....	50	6,000	.....	6,000	6,050
Carrier Z	5,000	4,000	.....	.....	.....	9,000
Total	6,000	5,050	7,000	1,000	8,000	19,050
Point B: Carrier M	2,000	4,000	1,000	100	1,100	7,100
Point C:						
Carrier R	1,000	500	500	500	1,000	2,500
Carrier X	.....	.....	5,000	5,000	10,000	10,000
Total	1,000	500	5,500	5,500	11,000	12,500

.....

Appendix B.—*Exhibit 19—Revenue Carloads Interchanged, State-to-State Movements, by Gateway, Calendar year*

Connecting line-haul railroad or water carrier	Origin State [1]	Destination State [1]	Revenue carloads
(Name) Gateway			
Carrier R	Alabama	New York	400
Do	....do	Ohio	100

Appendix B.—*Exhibit 19—Revenue Carloads Interchanged, State-to-State Movements, by Gateway, Calendar year——*

Connecting line-haul railroad or water carrier	Origin State [1]	Destination State [1]	Revenue carloads
	(Name) Gateway		
Do	....do	Pennsylvania	500
Do	....do	Vermont	500
Do	....do	Alabama	600
Do	....do	Georgia	400
Carrier X	Alabama	New Jersey	5,000
Do	New York	Florida	2,500
Do	....do	Georgia	2,500

[1] Use either full State name or standard ZIP Code abbreviation.

Appendix C.—*Study Movement Sheet*

SMS No. Stratum identity, if any: Sequence No.

Waybill No.

Number of cars:

Waybill or accounting date:

Total freight revenue: $

Study road revenue: $

Study road accessorial charges: $

Car initial:
Car No.:
Car type:
Commodity:

Weight:

TOFC ☐

COFC ☐

Origin Data:
Station:
Switching arrangements:
Open ☐ Closed ☐ Recip. ☐
Team ☐
Consignor:
Carriers Serving:

Special equipment:
Yes ☐ No ☐

Destination Data:
Station:
Switching arrangements:
Open ☐ Closed ☐ Recip. ☐
Team ☐
Consignor:
Carriers Serving:

Size or weight limitations:
Yes ☐ No ☐

Present route (carriers and junctions to extent known):
Routed by (if known):
Carrier ☐ Consignee ☐
Consignor ☐
Were junctions specified?
Yes ☐ No☐ Unknown ☐
Transit or other priveleges (specify):
Diverted route (carriers and junctions):
Other data (if any):

Evaluation:
Gain ☐ Percent [1]
Loss ☐ Percent [1]
No Change ☐
Amount of gain or loss:
Sample basis: $
Expanded basis: $
Reason(s) for evaluation (may be code-referenced if standardized):
Initials of evaluators:
(Delete if only one evaluator made the evaluation on all SMS in the study.)

[1] Show percent only if between 0 and 100.

Index I.—*Exhibits*

Exhibit number and name	Section	Type application
1 Map	1111.2(a)(2)(iii)	All
2 Agreement	1111.2(a)(3)(ii)	All.
3 Court Order	1111.2(a)(3)(iv)	All.
4 Labor impact	1111.2(a)(3)(viii)	All.
5 Environmental data	1111.2(a)(3(ix)	All.
6 Energy data	1111.2(a)(3)(x)	All.
7 Charter	1111.2(b)(1)(i)(E)	Major.
8 Partnership articles	1111.2(b)(1)(ii)	Major.
9 Documents of association	1111.2(b)(1)(iii)(E)	Major.
10 Court appointment	1111.2(b)(1)(iv)(D)	Major.
11 Other authorizing document	1111.2(b)(1)(v)	Major.
12 Corporate chart	1111.2(b)(1)(vi)	Major.
13 Annual reports	1111.2(b)(1)(ix)	Major.
1 Filing resolutions	1111.2(b)(2)(i)	Major.
15 Executing resolutions	1111.2(b)(2)(ii)	Major.
16 Other evidence of authorization	1111.2(b)(2)(iii)	Major.
17 Density Charts	1111.3(a)	Major.
18 Carload interchange data	1111.3(b)	Major.
19 State-to-State data	1111.3(b)	Major.
20 Carload origin and destination	1111.3(c)	Major.
21 Freight car fleet	1111.3(d)	Major.
22 Revenue freight traffic	1111.3(e)	Major.
23 Commodity revenue	1111.3(f)	Major.

Index I.—*Exhibits—Continued*

Exhibit number and name	Section	Type application
24 Commodity tonnage	1111.3(g)	Major.
25 Traffic study	1111.3(h)	Major.
26 Non-rail traffic study	1111.3(11)(h)(1)	Major.
27 Operating plan	1111.4(a)	Major.
28 Operating plan-minor	1111.4(b)	Major.
29 Property value	1111.5(a)(1)	All.
30 Securities value	1111.5(a)(2)	All.
31 Property encumbrance	1111.5(a)(3)	All.
32 Balance sheets	1111.5(b)(1)	Major.
33 Pro forma blance sheets	1111.5(b)(2)	Major.
34 Income statements	1111.5(b)(3)	Major.
35 Pro forma income statements	1111.5(b)(4)	Major.
36 Sources and application of funds	1111.5(b)(5)	Major
37 Blance sheets—minor	1111.5(c)(1)	Minor.
38 Income statements—minor	1111.5(c)(2)	Minor.

Index II.—*Table of Contents*

Section		Exhibit		Application Type[1]
Number	Name	Number	Name	
				All
1111.1	Types of Transactions			
(a)	Major			Major.
(b)	Minor			Minor.
(c)	Exempt			Exempt.
(c)(1)	Acquisition—carrier			Exempt.
(c)(2)	Acquisition—line			Exempt.
(c)(3)	Within corporate family			Exempt.
(c)(4)	Renewals			Exempt.
(c)(5)	Relocations			Exempt.
(c)(6)	Reincorporation			Exempt.
(c)(7)	Responsive applications			Exempt.
1111.2	Identifying information			All.
(a)	All application			All.
(a)(1)	Summary			All.
(a)(1)(i)	Summary			All.
(a)(1)(ii)	Time schedule			All.
(a)(1)(iii)	Purposes			All.
(a)(1)(iv)	Financial arrangements			All.
(a)(1)(v)	Public interest			All.
(a)(1)(v)(A)	Financial consideration			All.
(a)(1)(v)(B)	Adequate service			All.
(a)(1)(v)(C)	Fixed charges			All.
(a)(1)(v)(D)	Guaranty			All.
(a)(1)(v)(E)	Employees			All.
(a)(1)(v)(F)	Inclusion			All.
(a)(1)(vi)	Other support			All.
(a)(1)(vii)	Opinion of Counsel			All.
(a)(2)	Identification of applicant			All.
(a)(2)(i)	Name and address			All.
(a)(2)(ii)	States			All.
(a)(2)(iii)	Map	1	Map	All.
(a)(3)	Explanation of transaction			All.
(a)(3)(i)	Nature of transaction			All.
(a)(3)(ii)	Agreement	2	Agreement	All.
(a)(3)(iii)	Resulting merged company			All.
(a)(3)(iv)	Court order	3	Court order	All.
(a)(3)(v)	Property involved			All.
(a)(3)(vi)	Routes			All.
(a)(3)(vii)	Governmental financial assistance.			All.
(a)(3)(viii)	Labor impact	4	Labor impact	All.
(a)(3)(ix)(A)	Agreements			All.
(a)(3)(ix)(B)	Supplemental pension plans			All.
(a)(3)(ix)(C)	Position changes			All.
(a)(3)(ix)(D)	Cost and savings of changes			All.
(a)(3)(ix)(E)	Date of changes			All.
(a)(3)(ix)(F)	Annual net change			All.
(a)(3)(ix)	Environmental data	5	Environmental data	All.
(a)(3)(x)	Energy data	6	Energy data	All.
(b)	Major transaction			Major.
(b)(1)	Indentification of applicant			Major.
(b)(1)(i)	Corporation			Major.
(b)(1)(i)(A)	Date of incorporation			Major.
(b)(1)(i)(B)	Director			Major.
(b)(1)(i)(C)	Officers			Major.
(b)(1)(i)(D)	Principal stockholders			Major.
(b)(1)(e)(E)	Charter	7	Charter	Major.
(b)(1)(ii)	Partnership			Major.
(b)(1)(ii)(A)	Date and place formed			Major.
(b)(1)(ii)(B)	Address of partner			Major.
(b)(1)(ii)(C)	Partnership articles	8	Partnership artioles	Major.
(b)(1)(iii)	Other association			Major.
(b)(1)(iii)(A)	Date and place formed			Major.
(b)(1)(iii)(B)	Nature			Major.

Index II.—*Table of Contents—Continued*

Section		Exhibit		Application Type[1]
Number	Name	Number	Name	
(b)(1)(iii)(C)	Officers			Major.
(b)(1)(iii)(D)	Principal owners			Major.
(b)(1)(iii)(C)	Documents of association	Documents of association9		Major.
(b)(1)(iv)	Representative of real party in interest.			Major.
(b)(1)(iv)(A)	Name of court			Major.
(b)(1)(iv)(B)	Nature of appointment			Major.
(b)(1)(iv)(C)	Real party in interest			Major.
(b)(1)(iv)(D)	Court appointment	Court appoint-ment10		Major.
(b)(1)(v)	Other authorizing document	11	Other authorizing document	Major.
(b)(1)(vi)	Corporate Chart	12	Corporate chart	Major.
(b)(1)(vii)	Noncarrier activities			Major.
(b)(1)(viii)	Other corporate relations			Major.
(b)(1)(ix)	Capital stock			Major.
(b)(1)(x)	Annual reports	13	Annual reports	Major.
(b)(2)	Explanation of the transaction.			Major.
(b)(2)(i)	Filing resolution	14	Filing resolutions	Major.
(b)(2)(ii)	Executing resolutions	15	Executing resolutions	Major.
(b)(2)(iii)	Other evidence of authorization.	16	Other evidence of authroization.	Major.
1111.3	Traffic data			Major.
(a)	Density chart	17	Density chart	Major.
(b)	Carload interchange data	18	Carload interchange data	Major.
		19	State-to-State data	Major.
(c)	Carload origins and destinations.	20	Car load orgin or destinatio	Major.
(c)(1)	Origin			Major.
(c)(2)	Destination			Major.
(d)	Freight car fleet	21	Freight car fleet	Major.
(e)	Revenue freight traffic	22	Revenue freight traffic	Major.
(f)	Commodity revenue	23	Commodity revenue	Major.
(g)	Commodity tonnage	24	traffic study	Major.
(h)	Traffic study	25	Traffic study	Major.
(h)(1)	Year			Major.
(h)(2)	Traffic included, probability sampling.			Major.
(h)(3)	Data			Major.
(h)(4)	Written instructions			Major.
(h)(5)	Percentages			Major.
(h)(6)	Evaluators			Major.
(h)(7)	Results—applicant carriers			Major.
(h)(7)(i)	Interline originated			Major.
(h)(7)(ii)	Interline originated			Major.
(h)(7)(iii)	Overhead			Major.
(h)(8)	Results—nonapplicant carriers.			Major.
(h)(9)	Summary			Major.
(h)(10)	Traffic information disclosure.			Major.
(h)(11)	Nonrail traffic study	26	nonrail traffic study	Major.
1111.4	Operational data			Major.
(a)	Major transactions—operating plan.	27	Operating plan	Major.
(a)(1)	Patterns of service			Major.
(a)(2)	Blocking plan			Major.
(a)(3)	Location of shops			Major.
(a)(4)	Passenger service			Major.
(a)(5)	Equipment requirements			Major.
(a)(6)	Condition of properties			Major.
(b)	Minor transaction—operating plan.	28	Operating plan—minor	Minor.
(b)(1)	Pattern of service			Minor.
(b)(2)	Traffic level			Minor.
(b)(3)	Use of yards and shops			Minor.
(b)(4)	Passenger service			Minor.
(b)(5)	Operating economics			Minor.
(b)(6)	Abandonments			Minor.
1111.5	Financial information			
(a)	All transactions			All.
(a)(1)	Property values	29	Property values	All.
(a)(2)	Securities value	30	Securities value	All.
(a)(3)	Property encumbrance	31	Property encumbrance	All.
(a)(3)(i)	Description			All.
(a)(3)(ii)	Amount			All.
(a)(3)(iii)	To be assumed			All.
(b)	Major transaction			Major.
(b)(1)	Balance sheets	32	Balance sheets	Major.
(b)(1)(i)	Transferee—entity			Major.
(b)(1)(ii)	Transferee parent—entity			Major.
(b)(1)(iii)	Transferee subsidiaries—entity.			Major.
(b)(1)(iv)	Transferee and subsidiaries—consolidated.			Major.
(b)(1)(v)	Transferor—entity			Major.
(b)(1)(vi)	Transferor subsidiaries—entity.			Major.

Index II.—*Table of Contents—Continued*

Section		Exhibit		Application Type[1]
Number	Name	Number	Name	
(b)(1)(vii)	Transferor and subsidiaries—consolidated.			Major.
(b)(2)	Pro forma balance sheets	33	Pro forma balance sheets	Major.
(b)(3)	Income statements	34	Income statement	Major.
(b)(3)(i)	Transferee—entity			Major.
(b)(3)(ii)	Transferee parent—entity			Major.
(b)(3)(iii)	Transferee subsidiaries—entity.			Major.
(b)(3)(iv)	Transferee and subsidiaries—consolidated.			Major.
(b)(3)(v)	Transferor—entity			Major.
(b)(3)(vi)	Transferor subsidiaries—entity.			Major.
(b)(3)(vii)	Transferor and subsidiaries—consolidated.			Major.
(b)(4)	Pro forma income statement	35	Pro forma income statements	Major.
(b)(5)	Sources and application of funds.	36	Sources and application of funds.	Major.
(c)	Minor			Minor.
(c)(1)	Balance sheets	37	Balance sheets—	Minor.
(c)(2)	Income statements	38	Income statement—minor	Minor.
1111.6	Procedures			
(a)	General			All.
(a)(1)	Furnishing documents			All.
(a)(2)	Service list			All.
(a)(3)	Copies filed			All.
(a)(4)	Acronym			All.
(b)	Prefiling notification			Major.
(b)(1)	Carrier action			Major.
(b)(1)(i)	Description			Major.
(b)(1)(ii)	Traffic study year			Major.
(b)(1)(iii)	Filing date			Major.
(b)(2)	Commission action			Major.
(b)(2)(i)	Description			Major.
(b)(2)(ii)	Traffic study year			Major.
(b)(2)(iii)	Filing date			Major.
(b)(2)(iv)	If major			Major.
(c)	Application			All.
(c)(1)	Filing fee			All.
(c)(2)	Filing			All.
(c)(2)(i)	Signed under oath			All.
(c)(2)(ii)	Filed with Secretary			All.
(c)(2)(iii)	Copies conform to origin			All.
(c)(2)(iv)	Include exhibits			All.
(c)(2)(v)	Additional information			All.
(c)(2)(vi)	Directly related applications			All.
(c)(2)(vii)	Exception to required exhibits			All.
(c)(2)(viii)(A)	Carload interchange data			Major.
(c)(2)(vii)(B)	Traffic study			Major.
(c)(2)(viii)				All.
(c)(3)	Direct testimony			Major.
(c)(4)	Evidentiary record			All.
(c)(5)	Service			All.
(c)(5)(i)	Application			All.
(c)(5)(i)(A)	States			All.
(c)(5)(i)(B)	U.S. Department of Transportation.			All.
(c)(5)(i)(C)	U.S. Attorney General			All.
(c)(5)(i)(D)	Federal Trade Commission			All.
(c)(5)(i)(E)	Carriers			Major.
(c)(5)(ii)	Secretary of Labor			All.
(c)(6)	Application format			All.
(c)(6)(i)	Sequence			All.
(c)(6)(ii)	Appendix, volumes, numbering.			All.
(c)(6)(iii)	Interpretation			All.
(c)(6)(iv)	Compliance			All.
(c)(7)	Acceptance or rejection			All.
(c)(7)(i)	Acceptance			All.
(c)(7)(ii)	Rejection			All.
(d)	Response to application			All.
(d)(1)	Written comments			All.
(d)(1)(i)	When filed			All.
(d)(1)(ii)	Service			All.
(d)(1)(ii)(A)	Applicants			All.
(d)(1)(ii)(B)	U.S. DOT			All.
(d)(1)(ii)(C)	U.S. Attorney General			All.
(d)(1)(ii)(D)	Parties on service list			All.
(d)(1)(ii)	Contents			All.
(d)(1)(iii)(A)	Docket number and title			All.
(d)(1)(iii)(B)	Name			All.
(d)(1)(iii)(C)	Representative			All.
(d)(1)(iii)(D)	Position			All.
(d)(1)(iii)(E)	Participation			All.
(d)(1)(iii)(F)	Oral hearing request			All.
(d)(1)(iii)(G)	Discovery			All.
(d)(1)(iii)(H)	Railroad information			All.
(d)(1)(iii)(H)(*)	Preferential solicitation agreements.			All.

Index II.—*Table of Contents—Continued*

Section		Exhibit		Application Type[1]
Number	Name	Number	Name	
(d)(1)(iii)(H)(*3*)	Run through train operations.			All.
(d)(1)(iii)(H)(*4*)	Protective conditions—initial..			All.
(d)(1)(iii)(I)	Protective conditions—initial—nonrail.			All.
(d)(1)(iv)	Party of record			All.
(d)(2)	Comments of DOT and Justice.			All.
(d)(2)(i)				All.
(d)(2)(ii)				All.
(d)(2)(iii)				All.
(d)(3)	Protective conditions—final			All.
(d)(4)	Responsive applications			All.
(d)(5)	Protestant traffic study			Major.
(e)	Oral hearing basis			All.
(f)	Waiver or clarification			All.
(f)(1)	Petition required			All.
(f)(2)	When filed			All.
(f)(3)	No replies to petition			All.
(f)(4)	Application of waiver to other parties.			All.
(f)(5)	Entire commission decision			All.
(f)(6)	Specificity of waiver			All.
(g)	Notice of exemption			Exemption.
(g)(1)	When filed			Exemption.
(g)(2)	Contents			Exemption.
(g)(3)	Commission action			Exemption.
(h)	Procedures under 49 U.S.C. 11346.			All.
(h)(1)	Use of DOT application			All.
(h)(2)	Use of 49 U.S.C. 11346 procedures.			All.
(h)(2)(i)	Type of transaction			All.
(h)(2)(ii)	Proposing party			All.
(h)(2)(ii)(A)	DOT			All.
(h)(2)(ii)(B)	Railroad			All.
(h)(2)(iii)	Notice of filing			All.
(h)(3)	Report of Secretary of Treasury.			All.
(h)(4)	Written comments			All.
(h)(5)	Public hearings			All.
1111.7	Definitions			All.
(a)	Applicant			All.
(b)	Applicant carriers			All.
(c)	Major market extension			All.
(d)	Railroad			All.
(e)	Transferee			All.
(f)	Transferor			All.
1111.8	Reserved			
1111.9	Reserved			
1111.10	General Policy Statement			All.
(i)	General			All.
(ii)	Consolidation criteria			All.
(iii)	Public interest considerations			All.
(iv)	Public participation			All.
(v)	Inclusion			All.
(vi)	Labor protection			All.
(vii)	Procedures			All.
(viii)	Expiration date			All.
Appendix A	Exhibit 18			
Appendix B	Exhibit 19			
Appendix C	Study movement sheet			
Index I	Exhibits			
Index II	Table of contents			

[1] *Major* is defined in 1111.1(a). *Minor* is defined in 1111.1(b). *Exemption* is defined in 1111.1(c). All includes only *major* and *minor*.

[FR Doc. 79-35628 Filed 11-19-79; 8:45 am]

BILLING CODE 7035-01-M

Notices

Federal Register
Vol. 44, No. 225
Tuesday, November 20, 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

Forest Service

The Hells Canyon National Recreation Area, Wallowa-Whitman National Forest, Wallowa County, Oreg.; Public Hearing

Notice is hereby given that a public hearing will be held, beginning at 9 a.m., January 19, 1980, in the Classroom Building Auditorium at Eastern Oregon State College, La Grande, Oregon, on a proposal for the future management of the Lord Flat-Somers Point Plateau, Westside Reservoir Face and Mountain Sheep Wilderness Study Areas comprised of approximately 108,200 acres, and portions of the McGraw, Lick Creek, and Snake River roadless areas comprised of approximately 12,480 acres. These areas are within the Hells Canyon National Recreation Area in the County of Wallowa in the State of Oregon.

An information packet containing a map and information about the proposal may be obtained from the Forest Supervisor, Wallowa-Whitman National Forest, P.O. Box 907, Baker, Oregon 97814.

Individuals and organizations may express their views by appearing at this hearing or may submit written comments for inclusion in the official record to the Regional Forester, P.O. Box 3623, Portland, Oregon 97208, by February 19, 1980. Those persons wishing to present oral testimony at the hearing should notify the Regional Forester at the above address by January 11, 1980.

Dated: November 15, 1979.

Thomas C. Nelson,

Acting Chief, Forest Service.

[FR Doc. 79-35894 Filed 11-19-79; 8:45 am]

BILLING CODE 3410-11-M

Rural Electrification Administration

Oglethorpe Power Corp.; Proposed 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 $684,354,000 to Oglethorpe Power Corporation of Atlanta, Georgia. These loan funds will be used to finance a power supply project which consists of a 60 percent ownership interest in two coal-fired generating units of 818MW each.

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. F. F. Stacy, Jr., Manager, Oglethorpe Power Corporation, 2888 Woodcock Boulevard, Atlanta, Georgia 30341.

In order to be considered, proposals must be submitted on or before December 10, 1979 to Mr. Stacy. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as the cooperative 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, Office of Information and Public Affairs, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated at Washington, D.C. this 9th day of November, 1979.

Robert W. Feragen,

Administrator, Rural Electrification Administration.

[FR Doc. 79-35544 Filed 11-19-79; 8:45 am]

BILLING CODE 3410-15-M

Science and Education Administration

Committee of Nine; Meeting

In accordance with the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776), the Science and Education Administration, Cooperative Research, announces the following meeting:

Name: Committee of Nine.
Dates: December 4 and 5, 1979.
Time: 8:30 a.m. both days.
Place: Hilton Inn-West, I-40 and Meredian, Oklahoma City, Oklahoma.
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 or after the meeting with the contact person listed below.
Purpose: To evaluate and recommend proposals for cooperative research on problems that concern agriculture in two or more States, and to make recommendations for allocation of regional research funds appropriated by Congress under the Hatch Act for research at the State agricultural experiment stations.
Contact Person for Agenda and More Information: Dr. Estel H. Cobb, Recording Secretary, U.S. Department of Agriculture, Science and Education Administration, Cooperative Research, Washington, D.C. 20250, telephone: 202-447-4329.

Done at Washington, D.C., this 15th day of November 1979.

W. I. Thomas,

Deputy Director for Cooperative Research.

[FR Doc. 79-35789 Filed 11-19-79; 8:45 am]

BILLING CODE 3410-22-M

Office of Transportation

Rural Transportation Advisory Task Force Meeting

AGENCY: Office of Transportation, U.S. Department of Agriculture.

ACTION: Notice of Public Meeting of the Rural Transportation Advisory Task Force.

DATES:

November 26: 1:00 p.m., Ramada Inn, Rosslyn, VA
November 27: 9:00 a.m., Rm. 2230, U.S. Department of Transportation, Washington, DC
November 28: 9:00 a.m., Ramada Inn, Rosslyn, VA
November 29: 9:00 a.m., Rm 2230, U.S. Department of Transportation, Washington, DC

November 30: 9:00 a.m., Ramada Inn, Rosslyn, VA

ADDRESS: November 26, 28, and 30, Ramada Inn, Rosslyn, VA; November 27 and 29, U.S. Department of Transportation, Wash., DC.

SUMMARY: At the completion of its work on January 1, 1980, the Task Force will report on methods for enhancing the economical and efficient movement of agricultural commodities (including forest products) and agricultural inputs and recommend approaches for establishing a national agricultural transportation policy and for identifying impediments to a railroad transportation system adequate for the needs of agriculture. The Task Force formed three subcommittees on policy and essential transportation needs of agriculture; railroad problems of agriculture; and highway, waterway; and air transportation problems of agriculture. The Task Force has published its interim report including the identification of critical agricultural transportation issues. The Task Force has also held 12 regional public hearings. The Task Force has reviewed public comment received during regional hearings.

The purpose of this meeting is to continue discussion on final recommendations.

The public is invited to attend.

FOR FURTHER INFORMATION CONTACT: Dr. Robert J. Tosterud, Office of Transportation, U.S. Department of Agriculture, Washington, D.C. 20250, Phone: (202) 447-7690.

Dated: November 9, 1979.

Ron Schrader,

Director, Office of Transportation.

[FR Doc. 79-35658 Filed 11-19-79; 8:45 am]

BILLING CODE 3410-02-M

CIVIL AERONAUTICS BOARD

[Order 79-11-88]

Braniff International Airways; Nonstop Service Between United States and Brazil

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause: Order 79-11-88.

SUMMARY: The Board proposes to (1) temporarily eliminate a condition from the certificate of Braniff International Airways that now precludes nonstop service between the United States and Brazil; (2) consider the renewal of Braniff's temporary nonstop authority in a U.S.-Brazil case to be instituted in the future; and (3) deny other requests for U.S.-Brazil certificate authority without prejudice to refiling after consultations with Brazil. The applicants now seeking this authority are: American Airlines, Continental Airlines, DHL Airways, Eastern Air Lines and Western Air Lines.

OBJECTIONS: All interested persons having objections to the Board's tentative findings and conclusions that this authority should be granted, as described in the order cited above, shall, no later than December 19, 1979, file a statement of such objections with the Civil Aeronautics Board (20 copies, addressed to Docket 35455, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428) and mail copies to the applicants, the Department of Transportation and the Department of State. Copies of the objections should also be sent to the Ambassadors of the countries affected by the objections.

A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other such supporting evidence.

To get a copy of the complete order, request it from the CAB Distribution Section, Room 516, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT: Peter Rosenow (202-673-5035), Bureau of International Aviation, B-57, Civil Aeronautics Board, Washington, D.C.

By the Civil Aeronautics Board: November 14, 1979.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-35618 Filed 11-19-79; 8:45 am]

BILLING CODE 6320-01-M

[Order 79-11-80]

Certificated Passenger Service Between United States and Certain Countries in South America

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order Denying Applications, 79-11-90.

SUMMARY: The Board is denying applications filed by ten air carriers to provide certificated passenger service between the United States and the following countries: Argentina, Bolivia, Chile, Colombia, Ecuador, Mexico, Paraguay, Uruguay, and Venezuela.

It is also inviting any interested carriers to submit service proposals, including proposed start-up dates for service between points in the United States and points in Bolivia, Colombia, Paraguay and Uruguay, for purposes of consultations with those countries. This information must be submitted to the Director, Bureau of International Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, no later than December 19, 1979.

FOR FURTHER INFORMATION CONTACT: Robert Kneisley, Attorney, Bureau of International Aviation, B-57, Civil Aeronautics Board, Washington, D.C. 20428, (202) 673-5035.

The complete text of Order 79-11-90 is available from the Distribution Section, Room 516, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 79-11-90 to that address.

By the Civil Aeronautics Board: November 14, 1979.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-35819 Filed 11-19-79; 8:45 am]

BILLING CODE 6320-01-M

[Order 79-11-87; Docket No. 37076]

United States-Central American Show Cause Proceeding

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order 79-11-87; United States-Central American Show Cause Proceeding, Docket 37076.

SUMMARY: The Board proposes to issue certificates to all fit, willing and able applicants proposing scheduled service between points in the United States and points in Belize, El Salvador, Guatemala, Honduras, Nicaragua, and Panama. It has established the *United States-Central America Show Cause Proceeding* for this purpose, Docket 37076. The current applicants for this authority are: Air Florida, American Airlines, Braniff Airways, Continental Air Lines, DHL Airways, Eastern Air Lines, Evergreen International Airlines, Texas International Airlines, Trans-Americas Airlines, Trans International Airlines, and Western Airlines. Other applicants may request this authority by November 29, 1979.

OBJECTIONS: All interested persons having objections to the Board's tentative findings and conclusions that this authority should be granted, as described in the order cited above, shall, NO LATER THAN December 20, 1979, file a statement of such objections with the Civil Aeronautics Board (20 copies, addressed to Docket 37076, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428) and mail copies to the applicants, the Department of Transportation and the Department of State. Copies of the objections should

also be sent to the Ambassadors of the countries affected by the objections.

A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the Secretary of the Board will enter an order which will, subject to disapproval by the President, make final the Board's tentative findings and conclusions and issue the proposed certificates.

To get a copy of the complete order, request it from the CAB Distribution Section, Room 516, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT: Robert W. Kneisley (202–673–5035) or Patricia L. DePuy (202–673–5092), Bureau of International Aviation, Civil Aeronautics Board, Washington, D.C.

By the Civil Aeronautics Board: November 14, 1979.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 35817 Filed 11–19–79; 8:45 am]

BILLING CODE 6320–01–M

[Order 79–11–89; Docket No. 37077]

United States-Peru Case

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order Instituting *United States-Peru Case*, 79–11–89. Docket 37077.

SUMMARY: The Board is instituting a proceeding to be held before an administrative law judge to consider authorizing one or more additional U.S. air carriers for certificated passenger service between the U.S. and Peru. The judge is to select and rank three carriers for such service. At the conclusion of the case the Board will determine the number of carriers to be authorized, based on negotiating considerations.

DATES: Application for U.S-Peru service, motions to consolidate and petitions for reconsideration shall be filed by December 4, 1979.

ADDRESSES: Applications, motions and petitions should be filed in Docket 37077, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: Robert Kneisley, Attorney, B–57, Bureau of International Aviation, Civil Aeronautics Board, Washington, D.C. 20428, (202) 673–5035.

The complete text of Order 79–11–89 is available from the Distribution Section, Room 516, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 79–11–89 to that address.

By the Civil Aeronautics Board: November 14, 1979.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79–35820 Filed 11–19–79; 8:45 am]

BILLING CODE 6320–01–M

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Producing Firms for Determinations of Eligibility To Apply for Trade Adjustment Assistance

Petitions have been accepted for filing from the following firms: (1) Wilder Engineering Products, Inc., 1948 Ridge Avenue, Evanston, Illinois 60201, producer of loudspeakers (accepted October 31, 1979); (2) Weber Tackle Company, 1039 Ellis Street, Stevens Point, Wisconsin 54481, producer of fishing tackle (accepted October 31, 1979); (3) Triple H. Apparel, Inc., Box 566, Thomasville, North Carolina 27360, producer of women's tops, gowns, shorts and pants; children's dresses (accepted November 1, 1979); (4) Leed Foundry, Inc., Wade Road, Saint Clair, Pennsylvania 17970, producer of iron castings and steel gratings (accepted November 1, 1979); (5) Blue Bird Knitwear Company, Inc., 5200 City Line Road, Hampton, Virginia 23661, producer of children's sweaters, shawls and booties (accepted November 2, 1979); (6) R. M. Knitting Mills, Inc., 42311 West Street, Union City, New Jersey 07087, producer of men's and women's sweaters (accepted November 2, 1979); (7) Blair Footwear, Inc., 2121 Beale Avenue, Altoona, Pennsylvania 16603, producer of women's footwear (accepted November 2, 1979); (8) Car-Fi International, Inc., 152 West Cypress Avenue, Burbank, California 91502, producer of automobile stereo systems (accepted November 2, 1979); (9) Emil Lerch Inc., 2611 Penn Street, Hatfield, Pennsylvania 19440, processor of mushrooms (accepted November 5, 1979); (10) Mallard Frame, Inc., Box 705, Lumpkin, Georgia 31815, producer of dried plants and floral arrangements; plaques and framed pictures (accepted November 5, 1979); (11) Washington Mills Company, Box 1015, Winston-Salem, North Carolina 27102, producer of yarn and men's and boys' underwear and sweatshirts (accepted November 5, 1979); (12) C. S. Fred Mushroom Company, 395 West Railroad Street, South Lebanon, Ohio 45065, processor of mushrooms (accepted November 6, 1979); (13) American Interlining Corporation, 3401 I Street, Philadelphia, Pennsylvania 19134, producer of apparel bindings, trim and interlining (accepted November 6, 1979); (14) Saxton Products, Inc., 215 North Route 303, Congers, New York 10920, producer of wire, cable, telephones and accessories (accepted November 6, 1979); (15) J. L. Dillon, Inc., Box 180, Bloomsburg, Pennsylvania 17815, producer of cut flowers and foliage plants (accepted November 8, 1979); (16) Chronar Corporation, 330 Bakers Basin Road, Trenton, New Jersey 08638, producer of digital watch modules (accepted November 8, 1979); (17) Stoner, Inc., 6014 East Mercer Way, Mercer Island, Washington 98040, producer of citizen band and amateur radio transceivers (accepted November 8, 1979); (18) Princess Art, Inc., 41 Relyea Place, New Rochelle, New York 10801, producer of wire sculpture and other giftware (accepted November 8, 1979); and (19) Seneca Glass Company, 709 Beechurst Avenue, Morgantown, West Virginia 26505, producer of glass tableware (accepted November 9, 1979).

The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (Pub. L. 93–618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315).

Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of November 30, 1979.

Jack W. Osburn, Jr.,

Chief, Trade Act Certification Division, Office of Eligibility and Industry Studies.

[FR Doc. 79–35633 Filed 11–19–79; 8:45 am]

BILLING CODE 3510–24–M

Maritime Administration

[Docket No. S-653]

Lykes Bros. Steamship Co., Inc., Application

Notice is hereby given that Lykes Bros. Steamship Co., Inc. has filed an application dated November 9, 1979, to amend its present Operating-Differential Subsidy Agreement, Contract No. MA/MSB-451, so as to increase its maximum sailing requirement from 48 to 53 sailings for calendar year 1979 only on its subsidized Trade Route No. 13 – Freight Service (Line C – Mediterranean Line).

Any person, firm, or corporation having any interest in such application and desiring to offer views and comments thereon for consideration by the Maritime Subsidy Board should submit them in writing, in triplicate, to the Secretary, Maritime Subsidy Board, Washington, DC 20230, by the close of business on November 21, 1979.

The Maritime Subsidy Board will consider these views and comments and take such action, with respect thereto as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidies (ODS))

By order of the Assistant Secretary for Maritime Affairs

Dated: November 15, 1979.

Robert J. Patton Jr.,

Secretary.

[FR Doc. 79-35828 Filed 11-19-79; 8:45 am]

BILLING CODE 3510-15-M

National Technical Information Service

Government-Owned Inventions; Notice of Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents & Trademarks, Washington, DC 20231, for $.50 each. Requests for copies of patents must include the patent number.

Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for $4.00 ($8.00 outside North American Continent). Requests for copies of patent applications must include the PAT-APPL number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

Douglas J. Campion,

Patent Program Coordinator, National Technical Information Service.

U.S. Department of the Navy, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, Va. 22217.

Patent application 6,019,806: A Serial Phase Shift Beamformer Using Charge Transfer Devices; filed Mar. 12, 1979.

Patent application 6,038,761: Propellant Binder Manufacture without a Transient Volatile Pre-Solution Step; file May 14, 1979.

Patent application 6,039,059: Thiols of Solid Propellant Modifiers; filed May 14, 1979.

Patent application 6,050,578: Thermal Signature Targets; filed June 21, 1979.

Patent application 725,606: Pyrotechnic Smoke Composition; filed Sept. 22, 1976.

[FR Doc. 79-35634 Filed 11-19-79; 8:45 am]

BILLING CODE 3510-04-M

Government-Owned Inventions; Notice of Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents & Trademarks, Washington, DC 20231, for $.50 each. Requests for copies of patents must include the patent number.

Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield Virginia 22161 for $4.00 ($8.00 outside North American Continent). Requests for copies of patent applications must include the PAT-APPL number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agnecy which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

Douglas J. Campion,

Patent Program Coordinator, National Technical Information Service.

U.S. Department of the Navy, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, Va. 22217.

Patent application 6-008,720: Pod Assembly; filed Feb. 2, 1979.

Patent application 6-015,092: Seawater Battery; filed Feb. 26, 1979.

Patent application 6-015,269: LCD Controller; filed Feb. 26, 1979.

Patent application 6-015,828: Sonobuoy Launcher System; filed Feb. 28, 1979.

Patent application 6-020,902: Synthesized Sinusoid Generator; filed Mar. 16, 1979.

Patent application 6-024,827: Flexible Piezoelectric Composite Transducers; filed Mar. 28, 1979.

Patent application 6-030,187: Method and Apparatus for Fabricating a Wideband Whip Antenna; filed Apr. 16, 1979.

Patent application 6-036,911: Printed Circuit Waveguide to Microstrip Transition; filed May 7, 1979.

Patent application 6-038,379: Programmable D. C. Motor Servo System; filed May 11, 1979.

Patent application 6-039,920: Air-Curtain Incinerator for Energetic Materials; filed May 17, 1979.

Patent application 6-040,251: Adaptive Detector; filed May 18, 1979.

Patent application 6-042,165: Ion Drag Pumped Heat Pipe; filed May 26, 1979.

Patent application 6-047,187: Differential Sample and Hold Circuit; filed June 8, 1979.

Patent application 6-047,459: An Acceleration Cueing Simulation Device; filed June 11, 1979.

Patent application 6-049,693: Stray Light Eliminator in a Scatterometer; filed June 7, 1979.

Patent application 6-050,946: Charge Coupled Device Signal Output Summing Circuit; filed June 21, 1979.

Patent application 6-052,298: Wideband Polarization-Transforming Electromagnetic Mirror; filed June 26, 1979.

Patent application 6-052,368: Protective Communications Helmet; filed June 27, 1979.

Patent application 6-052,649: Liquid Crystal Fiber Optics Large Screen Display Panel; filed June 27, 1979.

Patent application 6-054,078: Rat-Race Mixer with Improved Intermediate Frequency Extractor; filed Jul. 2, 1979.

Patent application 6-055,100: Magneto-Optic Bias of Ring Laser; filed Jul. 5, 1979.

Patent application 6-056,655: Excimer-Pumped Four Level Blue-Green Solid State Laser; filed Jul. 11, 1979.

Patent 4,144,534: Battlefield IFF System; filed May 1, 1975, patented Mar. 13, 1979; not available NTIS.

Patent 4,147,929: Optical Photoemissive Detector and Photomultiplier; filed Aug. 31, 1977, patented Apr. 3, 1979; not available NTIS.

Patent 4,147,942: Fast Recovery One-Shot; filed Jul. 1, 1977, patented Apr. 3, 1979; not available NTIS.

Patent 4,151,893: Wing in Ground Effect Vehicle; filed Sep. 8, 1977, patented May 1, 1979; not available NTIS.

Patent 4,153,962: Undersee Tether/Terminator Assembly; filed Dec. 27, 1977, patented May 15, 1979; not available NTIS.

Patent 4,155,653: Smoke-Measuring Transducer; filed Oct. 14, 1977, patented May 22, 1979; not available NTIS.

Patent 4,155,981: Rectangular Cell Honeycomb Chemical Converter-Heat Exchange; filed Feb. 9, 1978, patented May 22, 1979; not available NTIS.

Patent 4,156,869: Conducting Cable; filed Jun. 20, 1977, patented May 29, 1979; not available NTIS.

Patent 4,157,863: Acousto-Optic Modulator; filed Apr. 6, 1978, patented Jan. 12, 1979; not available NTIS.

Patent 4,157,926: Method of Fabricating a High Electrical Frequency Infrared Detector by Vacuum Deposition; filed June 22, 1978, patented Jun. 12, 1979; not available NTIS.

Patent 4,158,207: Iron-Doped Indium Phosphide Semiconductor Laser; filed Mar. 27, 1978, patented Jun. 12, 1979; not available NTIS.

Patent 4,158,649: Polymeric Membranes which Cortain Polyphenylquinoxalines and which are Useful as Battery Separators; filed Oct. 17, 1977, patented Jun. 19, 1979; not available NTIS.

Patent 4,158,781: Transmit Receive Solid State Switch for Electroacoustic Transducers; filed Jan. 30, 1978, patented Jun. 19, 1979; not available NTIS.

Patent 4,160,175: Differential Threshold Detector; filed Jan. 12, 1978, patented Jul 3, 1979; not available NTIS.

National Aeronautics and Space Administration, Assistant General Councils for Patent Matters, NASA Code GP-2, Washington, D.C. 20546.

Patent application 6-041,143: Massively Parallel Processor Computer; filed May 21, 1979.

Patent application 6-041,164: Buck/Boost Regulators; filed May 21, 1979.

Patent application 6-051,270: Multiple Band Circularly Polarized Antenna; filed Jun. 22, 1979.

Patent application 6-051,271: Decommutator Patchboard Verifier; filed Jun. 22, 1979.

Patent application 6-051,274: Automatic Flowmeter Calibration System; filed Jun. 22, 1979.

Patent application 6-053,652: Power Converter; filed Jun. 29, 1979.

Patent 4,154,228: Apparatus and Method of Inserting a Microelectrode in Body Tissue or the Like Using Vibration Means; filed Aug. 6, 1976, patented May 15, 1979; not available NTIS.

[FR Doc. 79-35635 Filed 11-19-79; 8:45 am]

BILLING CODE 3510-04-M

National Telecommunications and Information Administration

Performance Review Board; Establishment

This notice announces the establishment by the Department of Commerce Assistant Secretary for Communications and Information, Henry Geller, as the Appointing Authority, of the Performance Review Board and of the appointment of all of its initial members. The purpose of the National Telecommunications and Information Administration PRB is to review performance appraisal ratings and performance award actions for recommendations to the Appointing Authority as well as other related matters. The names and titles of the members are:

Edward Zimmerman; Deputy Administrator for Policy, NTIA, DoC.

Gregg Skall, Chief Counsel, NTIA, DoC.

Veronica Ahern, Director, Office of International Affairs, NTIA, DoC.

Forrest Chisman, Acting Deputy Associate Administrator for Policy Analysis & Development, NTIA, DoC.

Roger Salaman, Chief, Policy Research Division, NTIA, DoC.

Douglass Crombie, Associate Administrator, Institute for Telecommunication Sciences, NTIA, DoC.

Stanley I. Cohn, Deputy Administrator for NTIA, DoC.

William Fishman, Acting Director, Office of Planning & Policy Coordination, NTIA, DoC.

Dale Hatfield, Acting Associate Administrator for Policy Analysis & Development, NTIA, DoC.

John Murray, Associate Director, Institute for Telecommunication Sciences, NTIA, DoC.

Joseph Hull, Associate Director, Institute for Telecommunication Sciences, NTIA, DoC.

Donald Lucas, Associate Director, Institute for Telecommunication Sciences, NTIA, DoC.

William Utlaut, Deputy Associate Administrator, Institute for Telecommunication Sciences, NTIA, DoC.

Samuel Probst, Director, Spectrum Plans & Policies, NTIA, DoC.

Terril Steichen, Director, Government Communications, NTIA, DoC.

Alvin Sher, Deputy Director for Electronic & Electrical Engineering, NBS, DoC.

Donald Jansky, Associate Administrator, Federal Systems & Spectrum Management, NTIA, DoC.

William Lucas, Associate Administrator, Telecommunications Applications, NTIA, DoC.

Carlos Roberts, Chief, Private Radio Branch, FCC.

If you have any questions regarding the PRB or its membership, please contact Claudette Jones, National Telecommunications and Information Administration, Room 790, 1800 G St., NW., Washington, D.C. 20504.

Claudette Jones,

Management Analyst.

[FR Doc. 79-35686 Filed 11-19-79; 8:45 am]

BILLING CODE 3510-60-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing Additional Import Controls on Certain Man-Made Fiber Textile Products From the Republic of the Philippines

November 15, 1979.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Controlling infants' woven blouses of man-made fibers in Category 641 (only T.S.U.S.A. numbers 382.0460 and 382.8139), produced or manufactured in the Philippines and exported during the twelve-month period which began on January 1, 1979.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), September 5, 1978 (43 FR 39408), January 2, 1979 (44 FR 94), March 22, 1979 (44 FR 17545), and April 12, 1979 (44 FR 21843)).

SUMMARY: Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 22 and 24, 1978, as amended, between the Governments of the United States and the Republic of the Philippines, the United States Government has decided to control imports of man-made fiber textile products in Category 641 (only T.S.U.S.A. numbers 382.0460 and 382.8139), produced or manufactured in the Philippines and exported to the United States during the twelve-month period which began on January 1, 1979, in addition to those categories previously designated.

EFFECTIVE DATE: November 20, 1979.

FOR FURTHER INFORMATION CONTACT: Carl Ruths, International Trade Specialist, Office of Textiles, U. S. Department of Commerce, Washington, D. C. 20230 (202/377-5423).

SUPPLEMENTARY INFORMATION: On January 2, September 11, and October 9, 1979, there were published in the Federal Register (44 FR 92, 52858 and 57954) letters from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established levels of

restraint for certain specified categories of cotton, wool and man-made fiber textile products, produced or manufactured in the Philippines, which may be entered into the United States for consumption or withdrawn from warehouse for consumption during the twelve-month period which began on January 1, 1979 and extends through December 31, 1979. Under the terms of the bilateral agreement, the United States Government has decided also to control imports of man-made fiber textile products in Category 641 during that same period.

Accordingly, in the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of man-made fiber textile products in Category 641 in excess of 61,042 dozen. The level of restraint has not been adjusted to account for any imports after December 31, 1978. Imports in the category during the period which began on January 1 and extended through September 30, 1979 have amounted to 37,478 dozen and will be charged. When the data became available, further import charges will be made for the period which began on October 1, 1979 and extended through the effective date of this action.

Paul T. O'Day,

Acting Chairman, Committee for the Implementation of Textile Agreements.

November 15, 1979.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury,
Washington, D.C. 20229.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive issued to you on December 27, 1978 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in the Philippines.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 22 and 24, 1977, as amended, between the Governments of the United States and the Republic of the Philippines; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on November 20, 1979 and for the twelve-month period beginning on January 1, 1979 and extending through December 31, 1979, entry into the United States for consumption and withdrawal from warehouse for consumption of man-made fiber textile products in Category 641, produced or manufactured in the Philippines, in excess of the following levels of restraint:

Category: 641; [2] *Twelve-Month Level of Restraint:* [1] 61,042 dozen.

Man-made fiber textile products in the foregoing Category which have been exported to the United States prior to January 1, 1979 shall not be subject to this directive.

Man-made fiber textile products in the foregoing Category which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on January 4, 1978 (43 F.R. 884), as amended on January 25, 1978 (43 F.R. 3421), March 3, 1978 (43 F.R. 8828), June 22, 1978 (43 F.R. 26773), September 5, 1978 (43 F.R. 39408), January 2, 1979 (44 F.R. 94), March 22, 1979 (44 F.R. 17545), and April 12, 1979 (44 F.R. 21843).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The action taken with respect to the Government of the Republic of the Philippines and with respect to imports of man-made fiber textile products from the Philippines has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Paul T. O'Day,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 79-35755 Filed 11-19-79; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Department of the Army

Military Traffic Management Command, Military Personal Property Claims Symposium; Open Meeting

Announcement is made of a meeting of the Military Personal Property Claims Symposium. This meeting will be held on 13 December 1979, at Headquarters, Military Traffic Management Command, Nassif Building, Room 714, 5611 Columbia Pike, Falls Church, Virginia 22041. The meeting will convene at 0930 hours and adjourn at approximately 1500 hours.

PROPOSED AGENDA: The purpose of the Symposium is to provide an open discussion and free exchange of ideas with the public on mutual problems arising from claims for loss, damage or destruction of personal property while in transit or storage.

This Symposium will be open to the public to the extent that space limitations of the meeting space permit. Because of these limitations, interested parties are requested to reserve space by contacting the Commander, Military Traffic Management Command, ATTN: MT-PPM, Washington, DC 20315, telephone (202) 756-1808.

All interested persons desiring to submit topics to be discussed should submit them in writing to the address given in the preceding paragraph. Topics to be discussed should be received on or before 6 December 1979.

Dated: November 14, 1979.

Robert F. Waldman,

Deputy Director, Directorate of Personal Property.

[FR Doc. 79-35630 Filed 11-19-79; 8:45 am]

BILLING CODE 3710-08-M

Notice of Intent To Prepare a Draft Environmental Impact Statement for the Eldred and Spankey Drainage and Levee District, Greene County, Ill.

AGENCY: St. Louis District, U.S. Army Corps of Engineers.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement for the Eldred and Spankey Drainage and Levee District, Illinois.

SUMMARY:

1. *Proposed Action:* The proposed action is to prepare a Draft Environmental Impact Statement for the Eldred and Spankey Drainage and Levee District, Illinois. This project is one of a series of local flood protection projects that were authorized concurrently for the Illinois River. The project features will provide increased flood protection, with emphasis placed on examining the structural stability of the existing levee system. Structural measures will provide a means for preventing or reducing flood damage to existing developments. Nonstructural measures will address managing the future land use and future development that may be located in the floodplain.

2. *Alternatives:* Alternatives will include applicable structural and nonstructural measures such as: increased levee stability measures;

[1] The levels of restraint have not been adjusted to reflect any imports after December 31, 1978. Imports during the period January-September 1979 have amounted to 37,478 dozen.

[2] In Category 641, only T.S.U.S.A. numbers 382.0460 and 382.8139.

enlargement of existing interior drainage channels for borrow, for additional storage, and for environmental enhancement; varying degrees of flood protection; seepage control measures; floodplain management; greenbelts; enhancement of wildlife habitat areas; and no action.

3. *Scoping Process:*

a. *Public Involvement Program:* The public involvement program began in March 1977 with the Notice of Initiation of Study sent to Federal, state, and local governments and agencies, as well as local citizens and levee commissions. Informal public meetings and information sessions involving a small number of various groups and/or individuals with divergent viewpoints will be scheduled. A formal public meeting will be scheduled to present alternatives formulated during the study. Coordination meetings and field trips with personnel of affected Federal and state agencies will be scheduled to provide meaningful involvement during the planning process. The scoping process, as outlined by the Council of Environmental Quality (29 November 1978), will be incorporated in the existing planning process.

b. *Significant Issues:* Significant issues addressed in the Draft Environmental Impact Statement will include: cumulative impacts on adjacent levee districts and unprotected areas; stability of existing levee systems; preservation of wildlife habitat, historical and archeological sites, and endangered species; creation of greenbelts; and an analysis of the effects on the environment regarding the economically justified alternatives.

c. *Lead Agency and Cooperating Agency Responsibilities:* The St. Louis District, Corps of Engineers, is the lead agency responsible for the Draft Environmental Impact Statement. The U.S. Fish and Wildlife Service and the Environmental Protection Agency will be requested to participate as cooperating agencies. Coordination will also be maintained with the Illinois Department of Conservation.

d. *Environmental Review and Consultation Requirements:* The completed Draft Environmental Impact Statement will be made available to appropriate Federal, state, and local agencies; representatives of environmental and development groups; and other interested individuals. The Draft Environmental Impact Statement will contain records of compliance with designated consultation requirements found applicable during the course of this study.

4. *Scoping Meeting:* The scoping process was initiated in conjunction with the response to the study initiation notice of 25 March 1977. Throughout the duration of the study, the scoping process will continue with the scheduling of a formal public meeting, and coordination meetings with Federal, state, and local agencies, as well as with representatives of environmental and development groups.

5. *Draft Environmental Impact Statement Preparation:* The Draft Environmental Impact Statement is tentatively scheduled to be completed in FY 80.

ADDRESS: Questions about the proposed action and the Draft Environmental Impact Statement can be answered by: Mr. Jack F. Rasmussen, Chief, Planning Branch, U.S. Army Engineer District, St. Louis, 210 N. 12th Street, St. Louis, Missouri 63101.

Dated: November 9, 1979.

Robert J. Dacey,

Colonel, CE District Engineer.

[FR Doc. 79-35696 Filed 11-19-79; 8:45 am]

BILLING CODE 3710-GS-M

Correction Notice of Closed Meeting

In accordance with Section 10 (a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the date change from 27-28 November 1979 to 11-12 December 1979 for the following Committee meeting announced at 44 FR 64484, November 7, 1979:

Name of the committee: Army Science Board.
Dates of meeting: December 11-12, 1979.
Place: Room 2E715B, The Pentagon, Washington, DC.
Time: 0800 to 1700 hours, December 11-12, 1979 (Closed).

Proposed agenda: The ASB Anti-Tactical Ballistic Missile (ATBM) Ad Hoc Sub-Group will hold classified discussions and receive briefings on the following issues: (a) Soviet tactical ballistic missile threat facing the field army, (b) Expectations over the next 5-10 years, (c) Various options, over the next 10-15 years, which could counter that threat, (d) Assessment of each option. 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 nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting.

Robert F. Sweeney,

Lieutenant Colonel, GS, Executive Secretary.

FR Doc. 79-35946 Filed 11-19-79; 8:45 am]

BILLING CODE 3710-08-M

Army Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Proposed Phase II of the North Bay Aquaduct Project, Regulatory Permit Application (No. 12950-58), Solano County, Calif.

AGENCY: San Francisco District, U.S. Army Corps of Engineers, Department of Defense.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement.

SUMMARY: 1. *Proposed Action:* The Central District of the Department of Water Resources of the State of California has applied for a Department of the Army permit under Section 10 of the River and Harbor Act of 1899 and under Section 404 of the Clean Water Act to construct various facilities for the purpose of conveying Sacramento-San Joaquin Delta water overland to supply water users in Solano and Napa Counties. About 67,000 acre-feet of water would be diverted from the Delta annually. Sixty-three percent would be for Solano County and 37 percent for Napa County. The point of diversion would likely be at or near Lindsey Slough, which is approximately 30 miles downstream from Sacramento, California.

2. *Alternatives:*

a. No action. Existing water supplies could possibly be supplemented by the reclamation of waste water and/or desalting saline or brackish waters available in the area.

b. Alternate intake locations.

c. Alternate canal and pipeline alignments.

3. *Scoping Process:*

a. The Environmental Impact Statement will be a "joint" document prepared in cooperation with the California State Department of Water Resources. Much of the scoping process will, therefore, also be a joint effort between the San Francisco District of the Corps of Engineers and the State. The structure of the scoping process will largely depend on the response to this Notice of Intent and on comments received on the Corps Public Notice for the project. The Corps of Engineers and the State Department of Water Resources will hold a scoping meeting on December 11, 1979, beginning at 7:00 P.M. The location is the Fairfield, California, City Council Chambers, 1000 Webster Street. All interested parties are encouraged to attend.

b. Significant Issues: To date the significant issues which have been identified and which will be analyzed in the DEIS include: (1) Possible

construction and other long-term impacts on wetlands of the Sacramento-San Joaquin Delta area, (2) Possible impact on a unique vernal pool habitat, (3) Possible impact on some of the only remaining examples of the perennial grasslands which once occupied much of the Central Valley of California, (4) Possible impact on endangered or threatened species, and (5) The impacts resulting from population growth which may be stimulated due to the additional water supply.

c. The necessary degree of coordination will be carried out as required by the Fish and Wildlife Coordination Act (16 USC Sec. 661 et seq.), the National Historic Preservation Act of 1966 (16 USC Sec. 470 et seq.), and the Endangered Species Act of 1973.

4. It is estimated that the DEIS/DEIR will be released to the public in April 1980.

5. Questions pertaining to preparation of the environmental document can be referred to Barney Opton, Environmental Branch, San Francisco District, Corps of Engineers, 211 Main Street, San Francisco, California 94105 (415–556–0325). General questions concerning the processing of the permit application can be referred to Bernard Lewis, Regulatory Functions Branch, same address as above, (415–556–8390).

John M. Adsit,

Colonel, CE, District Engineer.

November 9, 1979.

[FR Doc. 79-35637 Filed 11-19-79; 8:45 am]

BILLING CODE 3710-FS-M

Defense Logistics Agency

Realignment of Defense Contract Administration Services Regions; Finding of No Significant Impact

Defense Logistics Agency has revised the previously annonced plan to reduce the current nine Defense Contract Administration Services Regions (DCASRs) to five.

Instead of consolidating the headquarters activities of DCASR Cleveland with the DCASR Chicago, as announced in March 1979, the headquarters DCASR Chicago will be phased out and certain of its activities along with the assoicated personnel will be transferred to the DCASR Cleveland headquarters.

This revision results from a recent agreement in principle between the Department of Defense and the City of Chicago to transfer the existing Department of the Air Force facilities at O'Hare International Airport to the city. As a result, the building currently occupied by headquarters DCASR Chicago will not longer be available for government use. DLA has determined that it is more economical to consolidate DCASR Headquarters operations in Cleveland rather than at an alternative facility in Chicago. The Cleveland/Chicago realignment is part of the Defense Department's streamlining of activities in the interest of better management and savings.

DLA estimated that closing DCASR Chicago should result in a net annual savings of approximately 5 million dollars, consisting primarily of the costs associated with the reduction of 4 military and 176 civilian positions, as well as other related savings. The previous announced closures of DCASRs in New York, New York; Philadelphia, Pennsylvania; and Dallas, Texas, are not affected by this revision to the planned consolidations.

Consistent with the intent of section 102(2) of the National Environmental Policy Act of 1969, Department of Defense Directive 6050.1, Environmental Effects in the United States of DoD Actions, and Council on Environmental Quality Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act (NEPA) (40 CFR 1500–1508), notice is hereby given that an Environmental Impact Statement is not being prepared for this action. An Environmental Assessment has been previously completed, from which it has been determined that the consolidation will have no appreciable impact on the environment. Therefore, the actions are not considered to be major actions significantly affecting the quality of the human environment.

The Environmental Assessment, as well as the basic data developed during the economic analysis study, may be reviewed by interested parties in the office of Rear Admiral E. M. Kocher, SC, USN, Assistant Director, Plans, Programs and Systems, Defense Logistics Agency, Cameron Station, Alexandria, Virginia 22314. A limited number of copies of the Environmental Assessment are available from the same office to fill single copy requests.

To ensure that no substantive information has been overlooked, DLA invites public comment concerning the decision and the Environmental Assessment discussed above. Interested persons are invited to submit written data, views, and arguments to Rear Admiral E. M. Kocher on or before December 20, 1979.

E. M. Kocher,

Rear Admiral, SC, USN, Assistant Director, Plans, Programs and Systems.

[FR Doc. 79-35638 Filed 11-19-79; 8:45 am]

BILLING CODE 3620-01-M

DEPARTMENT OF ENERGY

Compliance With the National Environmental Policy Act; Finding of No Significant Impact

AGENCY: Department of Energy.

ACTION: Notice of finding of no significant impact (FONSI).

SUMMARY: The Department of Energy (DOE) has prepared an environmental assessment (EA) on the proposed granting of an exemption from the provisions of the Powerplant and Industrial Fuel Use Act of 1978 to Anheuser-Busch, Inc., Los Angeles, California. The exemption is requested for the expansion of the existing Anheuser-Busch brewery in Van Nuys, California, which is within the City of Los Angeles. The site was previously the location of Busch Gardens, and is part of a light industrial/commercial area.

Based on the findings of the EA, which are available to the public on request, DOE has determined that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment, within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.* Therefore, no environmental impact statement is required.

FOR FURTHER INFORMATION CONTACT:

Susan P. Walker, NEPA Affairs Division, Office of the Assistant Secretary for Environment, Room 4G–064, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–4600.

Steven E. Ferguson, Environmental Analysis Branch, Office of Fuels Conversion, Economic Regulatory Administration, U.S Department of Energy, 2000 M Street, NW., Washington, D.C. 20461, (202) 634–6523.

SUPPLEMENTARY INFORMATION: There are no significant environmental impacts associated with the addition to the existing brewery of two oil or gas fired boilers, for the following reasons:

Sulfur emissions will be reduced at the facility by the use of oil of a lower sulfur content than has previously been burned;

Boiler design and operating conditions will enable the facility to meet the stringent nitrogen oxide limitations of the South Coast Air Quality Management District;

Changes in emissions of other pollutants are negligible;

Increased wastewater flows resulting from the expansion will be discharged to the sewage collection system of the City of Los Angeles, which has issued a Negative Declaration under the California Environmental Quality Act for the sewer project;

Visual, noise, and socioeconomic impacts will be minimal, because of the existing industrial character of the area. Anheuser-Busch has agreed to mitigate potential problems from increased truck traffic.

The applicant's Fuels Decision Report, and the Economic Regulatory Administration analysis, considered five alternate fuels, and found that none was reasonable for use at the Anheuser-Busch facility. Therefore, the EA did not address further the impacts of the use of any fuels other than oil or gas, as these fuels had been found not to be reasonable alternatives as defined under the provisions of the Fuel Use Act.

Dated: November 6, 1979.

Ruth C. Clusen,

Assistant Secretary for Environment.

[FR Doc. 79-35724 Filed 11-19-79; 8:45 am]

BILLING CODE 6450-01-M

National Petroleum Council, Committee on Materials and Manpower Requirements; Meeting

Notice is hereby given that the Committee on Materials and Manpower Requirements has scheduled a meeting in November 1979. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Materials and Manpower Requirements will analyze the potential constraints in these areas which may inhibit future production and will report its findings to the National Petroleum Council. Its analysis and findings will be based on information and data to be gathered by the various task groups. The time, location and agenda of the meeting follows:

The second meeting of the Committee is scheduled for Wednesday, November 28, 1979, starting at 9:30 a.m., in the Fairmont Hotel, 1717 North Akard Street, Dallas, Texas.

The tentative agenda for the meeting follows:

1. Introductory remarks by Chairman and Government Cochairman.

2. Review and discuss the draft report on Materials and Manpower Requirements.

3. Discuss any other matters pertinent to the overall assignment of the Committee on Materials and Manpower Requirements.

The meeting is open to the public. The Chairman of the Committee is empowered to conduct the meeting in a fashion that will, in his judgement, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform James R. Hemphill, Office of Resource Applications, 202/633-8383, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

A transcript of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room GA-152, DOE, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on November 8, 1979.

R. Dobie Langenkamp,

Deputy Assistant Secretary, Oil, Natural Gas and Shale Resources, Resource Applications.

November 8, 1979.

[FR Doc. 79-35727 Filed 11-19-79; 8:45 am]

BILLING CODE 6540-01-M

Economic Regulatory Administration

Ada Resources, Inc.; Corrections to Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Correction to Notice of Action taken and opportunity for comment on Consent Order.

SUMMARY: This corrects the document that appeared in the Federal Register on November 2, 1979 beginning on page 44 FR 63135. The following corrections should be made:

1. Page 63136, column 1, paragraph 2:

Delete—paragraph 2 as published.

Substitute—2. The DOE has alleged that Ada Resources' sales of petroleum products were made at prices exceeding the maximum legal selling prices calculated pursuant to 10 CFR 212.93 (6 CFR 150.39 prior to January 15, 1974) and, have resulted in apparent overcharges.

Issued in Dallas, Texas on the 9th day of November, 1979.

Herbert F. Buchanan,

Deputy District Manager, Southwest District Enforcement, Economic Regulatory Administration.

[FR Doc. 79-35731 Filed 11-19-79; 8:45 am]

BILLING CODE 6450-01-M

[ERA Cases Nos. 55023-9053-01-12 and 55023-9053-02-12; Docket No. ERA-FC-001]

Anheuser-Busch, Inc.; Availability of Tentative Staff Determination

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Availability of Tentative Staff Determination.

SUMMARY: On June 15, 1979, Anheuser-Busch, Incorporated (Anheuser-Busch), petitioned the Economic Regulatory Administration (ERA), of the Department of Energy for an order which would permanently exempt two planned major fuel burning installations (MFBI), from certain prohibitions of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* (FUA or the Act), relating to the use of petroleum or natural gas in new MFBIs. Anheuser-Busch plans to install two 143,700,000 Btu/hr (heat input rate) oil or natural gas fired boilers at its Los Angeles, California brewery. ERA accepted the petition on July 11, 1979, and published notice of its acceptance, together with a statement of the reasons set forth in the petition for requesting the exemptions, in the Federal Register on July 19, 1979 (44 FR 42307). Publication of the notice of acceptance commenced a 45 day public comment period pursuant to Section 701 of FUA. Interested persons were also afforded an opportunity to request a public hearing. The comment period ended September 4, 1979. No comments were submitted. No hearing was requested.

ERA's staff has reviewed the information presently contained in the record of this proceeding. A Tentative Staff Determination has been made which recommends that ERA issue an order which would grant permanent exemptions to use natural gas or petroleum in the two planned MFBI's. A copy of the Tentative Staff Determination is available from the Office of Public Information at the address listed below.

ERA will issue a final order granting or denying the petition for exemptions from the prohibitions of the Act within six months after the public comment period provided for in this notice has expired unless ERA extends such

period. Notice of any extension will be published in the Federal Register together with a statement of the reasons for such extension.

DATES: Written comments on the Tentative Staff Determination are due on or before December 3, 1979.

ADDRESSES: Fifteen copies of written comments shall be submitted to: Department of Energy, Case Control Unit, Box 4629, Room 2313, 2000 M Street NW, Washington, D.C. 20461. Docket Number ERA–FC–79–001 should be printed clearly on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

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

Constance L. Buckley, Chief, New MFBI Branch, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, 2000 M Street, NW, Room 3128, Washington, D.C. 20461, Phone (202) 254–7814.

G. Randolph Comstock, Acting Assistant General Counsel for Coal Regulations, Office of General Counsel, Department of Energy, 1000 Independence Avenue, SW, Room 6G–087, Washington, D.C. 20585, Phone (202) 252–2967.

SUPPLEMENTARY INFORMATION:

Anheuser-Busch, Incorporated (Anheuser-Busch or the Petitioner) plans to install two 143,700,000 Btu/hr (heat input rate) oil or natural gas fired boilers to expand its Los Angeles, California brewery. The new units are expected to consume approximately 202,000 barrels of low sulfur residual oil per year or an amount of natural gas having a Btu content approximately equivalent to such residual oil.

The Economic Regulatory Administration (ERA) published interim rules on May 15 and 17, 1979 (44 FR 28530, 28950) to implement provisions of Title II of the Powerplant and Industrial Fuel Use Act of 1978, (42 U.S.C. 8301 *et seq.*) (FUA or the Act). FUA prohibits the use of natural gas or petroleum in certain new major fuel burning installations (MFBI) unless an exemption for such use has been granted. On June 15, 1979, Anheuser-Busch petitioned ERA for an order which would permanently exempt the two planned MFBI's.

In accordance with Part 502 of the interim rules, a Fuels Decision Report (FDR) is required as part of the petition. The interim rules require that a FDR be submitted by a petitioner to demonstrate that all reasonable alternatives to the use of oil or natural gas have been evaluated. In accordance with § 502.2(a)(1) of the interim rules, ERA and Anheuser-Busch agreed that the scope of the FDR would be limited to the following fuels and fuel mixtures:

Coal
Petroleum coke
Refuse derived fuel (RDF)
Low Btu gas derived from coal
Solar energy
A mixture of coal and petroleum
A mixture of petroleum coke and petroleum
A mixture of RDF and petroleum
A mixture of solar energy and petroleum

Anheuser-Busch has met the general requirements for exemptions by demonstrating, in accordance with section 213(a)(1) of the Act, (1) that the use of a mixture of coal, petroleum coke, or RDF and petroleum is not technically feasible because such mixtures cannot be burned without violating applicable environmental requirements, and (2) that use of a mixture of solar energy and petroleum is not economically feasible.

Anheuser-Busch's petition requested the following permanent exemptions from the prohibitions of Title II of FUA for the reasons noted:

1. *Permanent exemption due to inability to comply with applicable environmental requirements.*

For each of the planned units a permanent exemption pursuant to section 212(a)(1)(c) of the Act based upon an asserted inability to comply with applicable environmental requirements by using coal, petroleum coke, or RDF.

2. *Permanent exemption due to lack of alternate fuel supply.*

For each of planned units a permanent exemption pursuant to section 212(a)(1)(A)(ii) of the Act based upon an asserted lack of supply of low Btu gas derived from coal at a cost which does not substantially exceed the cost of using imported petroleum as a primary energy source during the useful life of the units.

3. *Permanent exemption due to site limitations.*

For each of the planned units, a permanent exemption pursuant to section 212(a)(1)(B) of the Act based upon an asserted inability to use solar energy due to site limitations.

ERA's staff has reviewed the information presently contained in the record of this proceeding. Based on that review, and independent research, a Tentative Staff Determination has been made which recommends that an order be issued which would respond to the petition as follows:

1. *Permanent exemption due to inability to comply with applicable environmental requirements.*

For each of the two planned units, a permanent exemption should be granted to use a low sulfur residual oil or natural gas based upon Petitioner's demonstration, pursuant to section 212 (a)(1)(c) of the Act, of an inability to burn coal, petroleum coke and RDF without violating applicable environmental requirements within five years after the projected date of commencement of operation of the units.

2. *Permanent exemption due to lack of alternate fuel supply.*

For each of the two planned units, a permanent exemption should be granted to use a low sulfur residual oil or natural gas based upon Petitioner's demonstration, pursuant to section 212 (a)(1)(A)(ii) of the Act, that the cost of using low Btu gas derived from coal would substantially exceed the cost of using imported petroleum as a primary energy source during the useful life of the units.

3. *Permanent exemption due to site limitations.*

For one unit, a permanent exemption should be granted to use a low sulfur residual oil or natural gas based upon Petitioner's demonstration, pursuant to section 212(a)(1)(B) of the Act, that site limitations, which cannot be overcome within five years after commencement of operations, preclude the use of solar energy.

For one unit, site limitations would not preclude the use of solar energy. However a permanent exemption should be granted to use a low sulfur residual oil or natural gas based upon data supplied by the Petitioner and pursuant to section 212(a)(1)(A)(ii) of the Act, based on the lack of an alternate fuel supply since the cost of using solar energy would substantially exceed the cost of using imported petroleum as a primary energy source during the useful life of the units.

ERA's staff also has tentatively determined and recommends that any order granting the exemptions described above should, pursuant to section 214 of the Act, be on certain terms and conditions, including, among others:

1. The use of effective fuel conservation measures applicable to the brewery expansion.

2. That the units comply with applicable environmental requirements.

3. That the units burn only certain specified grades of petroleum fuels.

4. That the units, in the aggregate, burn no more than 1,323 billion Btu's per year of either the specified petroleum fuels or natural gas.

5. That Anheuser-Busch submit an acceptable compliance plan within 30 days of issuance of any order granting the exemptions. Such order shall not

take effect earlier than the 60th calendar day after publication of the order in the Federal Register or until ERA has approved the compliance plan in writing, whichever occurs later.

In addition to the above conditions, ERA's staff recommends that any order granting the exemptions described above set forth as one of the terms of the order, pursuant to Section 214 of the Act, Petitioner's voluntary agreement to install a solar energy system for hot water and heating and cooling at either the present administration building located at the Los Angeles brewery, or at a proposed Hospitality Center to be located at the brewery.

The Tentative Staff Determination does not constitute a decision by ERA to grant the exemptions requested. Such determination will be made in accordance with Section 501.66 of the interim rules on the basis of the entire record of this proceeding, including any comment received on the Tentative Staff Determination.

Issued in Washington, D.C. on November 9, 1979.

Robert L. Davies,

Acting Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 79-35725 Filed 11-19-79; 8:45 am]

BILLING CODE 6450-01-M

Harrison Gas & Oil, Inc.; 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 Harrison Gas & Oil, Inc., 4600 E. Washington Blvd., Los Angeles, CA 90040. This Proposed Remedial Order charges Harrison with pricing violations in the amount of $204,033.64, connected with the resale of motor gasoline during the time period November 1, 1973, through May 31, 1976 in the State of California.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Jack L. Wood, District Manager of Enforcement, 111 Pine Street, San Francisco, CA 94111, phone (415) 556-7200. On or before December 5, 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 On the 9th day of November 1979, in Washington, D.C.

Robert D. Gerring,

Director, Program Operations Division, Economic Regulatory Administration.

[FR Doc. 79-35729 Filed 11-19-79; 8:45 am]

BILLING CODE 6450-01-M

Nordstrom Oil Co.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken and opportunity for comment on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

DATES: Effective date: September 24, 1979. Comments by: December 20, 1979.

ADDRESS: Send comments to William D. Miller, Central District Manager of Enforcement, Department of Energy, 324 East 11th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Jeannine C. Fox, Chief, Refined Products Programs Management Branch, 324 East 11th Street, Kansas City, Missouri 64106. (Phone) 816-374-5932.

SUPPLEMENTARY INFORMATION: On September 24, 1979, the Office of Enforcement of the ERA executed a Consent Order with Nordstrom Oil Company of Cedar Rapids, Iowa. Under 10 CFR 205.199J(b), a Consent Order which involves a sum of less than $500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

I. The Consent Order

Nordstrom Oil Company (Nordstrom), with its home office located in Cedar Rapids, Iowa, is a firm engaged in the marketing of motor gasoline and heating oil to resellers and end-users, and is subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR, Parts 210, 211, 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of Nordstrom, the Office of Enforcement, ERA, and Nordstrom entered into a Consent Order.

The Consent Order encompasses Nordstrom's sale of covered products during the period November 1, 1973 through April 30, 1974.

II. Disposition of Refunded Overcharges

In this Consent Order, Nordstrom agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I. above, the sum of sixty-five thousand dollars *($65,000)* by May 15, 1980. Refunded overcharges will be in the form of a certified check made payable to the United States Department of Energy and will be delivered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distrubution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossiblity to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States prusuant to 10 CFR 205.199I(a).

III. Submission of Written Comments

A. *Potential Claimants:* Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. *Other Comments:* The ERA invites interested persons to comment on the

terms, conditions or procedural aspects of this Consent Order.

You should send your comments or written notification of a claim to William D. Miller, Central District Manager of Enforcement, Department of Energy, 324 East 11th Street, Kansas City, Missouri 64106. You may obtain a free copy of this Consent Order by writing to the same address or by calling 816–374–5932.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on Nordstrom Consent Order." We will consider all comments we receive by 4:30 p.m., local time, on December 20, 1979. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Kansas City, Missouri on the 24th day of September, 1979.

William D. Miller,

District Manager of Enforcement.

[FR Doc. 79-35728 Filed 11-19-79; 8:45 am]

BILLING CODE 6450-01-M

Sid Richardson Carbon & Gasoline Co. and Richardson Products Co.; Action Taken on Consent Order

Pursuant to 10 CFR 205.199J, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of final action taken on a Consent Order. Under the terms of 10 CFR 205.199J(c), no Consent Order involving sums in excess of $500,000 shall become effective until ERA publishes notice of its execution and solicits and considers public comments with respect to its terms.

On October 4, 1979, ERA published a notice of a Proposed Consent Order which was executed between Sid Richardson Carbon and Gasoline Company and Richardson Products Company and the ERA (44 FR 57148 October 4, 1979). With that notice, and in accordance with 10 CFR 205.199J, ERA invited interested persons to comment on the proposed Consent Order. Also, in that notice, and in accordance with 10 CFR 205.283, interested parties who believe that they have a claim to all or a portion of the refund were instructed to provide written notification to ERA. Several parties submitted written notification of claim; however, no comments on the terms, conditions or procedural aspects of the Consent Order were received. Therefore, ERA has concluded that the Consent Order as executed between ERA and Sid Richardson Carbon and Gasoline Company and Richardson Products Company is an appropriate resolution of the compliance proceedings described in the notice published October 4, 1979, and hereby gives notice that the Consent Order shall become effective as proposed, without modfication, on November 15, 1979.

Issued in Dallas, Texas on the 7th day of November, 1979.

Herbert F. Buchanan,

Deputy Director, Southwest District Enforcement, Economic Regulatory Administration.

[FR Doc. 79-35726 Filed 11-19-79; 8:45 am]

BILLING CODE 6450-01-M

Vic & Lou's Union; 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 Vic & Lou's Union, 1300 Davis Street, San Leandro, CA 94577. This Proposed Remedial Order charges Vic & Lou's Union with pricing violations in the amount of $3,157.49, connected with the resale of motor gasoline during the period August 1, 1979 through September 20, 1979, in the State of California.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Jack L. Wood, District Manager of Enforcement, 111 Pine Street, San Francisco, California 94111, phone (415) 556–7200. 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, NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Washington, D.C. on the 15th day of November, 1979.

Robert D. Gerring,

Director, Program Operations Division, Economic Regulatory Administration.

[FR Doc. 79-35730 Filed 11-19-79; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 79–31–NG]

Border Gas, Inc.; Application To Import Natural Gas From Mexico, Request for Comments

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of receipt of application from Border Gas, Inc., to import natural gas from Mexico, request for comments, petitions for intervention, protests, and requests for hearing.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice that on November 9, 1979, Border Gas, Inc. (Border), filed an application (ERA Docket No. 79–31–NG) under Section 3 of the Natural Gas Act of 1938, as amended, for authorization to import up to 300 million cubic feet per day of natural gas by pipeline into the United States of America from Mexico, all as more fully set forth in the application on file with the ERA and open to public inspection.

The application states that on August 3, 1977, Petroleos Mexicanos (Pemex) announced its decision to sell natural gas to be exported from Mexico into the United States to certain U.S. interstate natural gas pipeline companies in the following proportions:

	Percent
Tennessee Gas Pipeline Company, A Division of Tenneco Inc. (Tennessee)	37½
Texas Eastern Transmission Corporation (Texas Eastern)	27½
El Paso Natural Gas Company (El Paso)	15
Transcontinental Gas Pipe Line Corporation (Transco)	10
Southern Natural Gas Company (Southern)	6¾
Florida Gas Transmission Company (Florida)	3¾
Total	100

FOR FURTHER INFORMATION CONTACT:

Mr. Finn K. Neilsen, Director, Import/Export Division, 2000 M Street, NW., Room 4126, Washington, D.C. 20461, telephone (202) 254–8202.

Mr. Martin S. Kaufman, Deputy Assistant General Counsel for International Trade and Emergency Preparedness, 1000 Independence Avenue, SW., Forrestal Building, Room 5E064, Washington, D.C. 20585, telephone (202) 252–4888.

SUPPLEMENTAL INFORMATION: Border was formed by U.S. interstate natural gas pipeline companies to facilitate the purchase of the Mexican natural gas from Pemex and the importation into the United States. Border is a closed corporation whose business is managed by its shareholders. The six U.S. interstate natural gas pipeline companies listed above own all of Border's outstanding shares in proportion to their respective percentage entitlements to purchase the Mexican natural gas. Border has made application to conduct business in the State of Texas in the near future as a foreign corporation.

The application further states that Pemex and Border have executive a definitive Contract for the Purchase and Sale of Natural Gas (Purchase Contract) dated October 19, 1979, which provides for the sale by Pemex to Border of natural gas determined from time to time to be surplus to the Mexican national demand, for resale to specified U.S. interstate natural gas pipeline companies. The sale and delivery of natural gas by Pemex will be made at

the International Boundary between Mexico and the United States near Reynosa, Tamaulipas, and Hidalgo, Texas. The sale and delivery of Mexican natural gas by Pemex to Border and the Importation and resale of the natural gas by Border can begin immediately by means of existing facilities following the issuance of all governmental approvals in Mexico and in the United States.

The Purchase Contract contemplates that Pemex will sell the Mexican natural gas to Border at two points on the International Boundary. Facilities adequate for the initial delivery of up to 300 million cubic feet of Mexican natural gas per day presently exist on both sides of the International Boundary at the secondary point of delivery where interstate gas pipeline facilities belonging to Texas Eastern interconnect with gas pipeline facilities of Pemex. Texas Eastern holds a Presidential Permit to maintain and operate the facilities at the international Boundary issued by Federal Power Commission (FPC) order issued on October 9, 1956, at Docket No. G–9786, pursuant to Executive Order No. 10485, 16 FPC 27 (1956). Border's application also requests authority to import quantities of Mexican natural gas in excess of 300 million cubic feet per day, which will necessitate the construction of additional facilities at the principal point of delivery on both sides of the International Boundary. As imported quantities of Mexican natural gas dictate establishment of the principal point of delivery referred to in the Purchase Contract, appropriate applications will be filed for authority regarding the construction, maintenance and operation of the Presidential Permit facilities and other pipeline facilities in the United States. Immediately upon its purchase and importation of the Mexican natural gas into the United States, Border will resell the Mexican natural gas at the point of importation to the interstate natural gas pipeline companies, in accordance with their respective entitlements.

Border shortly will file its application with the Federal Energy Regulatory Commission for a certificate of public convenience and necessity authorizing, under Section 7(c) of the Natural Gas Act, its sale of the Mexico natural gas in interstate commerce to the six U.S. interstate natural gas pipeline companies for resale, and for waiver (or exemption) as to Border of the provisions of Title II of the Natural Gas Policy Act of 1978 with respect to Border's sale of the Mexican natural gas to the U.S. interstate natural gas pipeline companies.

On September 21, 1979, it was announced that the Governments of the United States and Mexico had reached agreement permitting the purchase of Mexican natural gas by U.S. buyers. The agreement has been described as a framework within which the United States and Mexico "can authorize and support, as a matter of policy" commercial contracts for the purchase of natural gas.

On November 8, 1979, the ERA published a notice in the **Federal Register** (44 FR 64957) which outlined the agreement, established ERA Docket No. 79–31–NG for this proceeding, and invited potential interveners to petition ERA for intervener status if they believe they may have an interest in Border's proposal.

While it is noted in the November 8, 1979, **Federal Register** notice that it is ERA's desire to complete the review and consideration of Border's application by December 31, 1979, ERA will, in accordance with applicable procedural regulations, provide all parties adequate opportunity to address all issues presented by Border's proposal as they may pertain to ERA's review under Section 3 of the Natural Gas Act and DOE Delegation Order 0204–54. Accordingly, petitions for intervention, comments, protests or requests for hearing will be accepted for consideration if filed within 15 days from the date of publication of this notice.

All filings must cite ERA Docket No. 79–31–NG and should be sent to the Department of Energy, Economic Regulatory Administration, Import/Export Docket Room, Room 4126, 2000 M Street, N.W., Washington, D.C. 20461.

Filings are to be made in accordance with the rules of practice and procedure (18 CFR 1.8) and the regulations under the Natural Gas Act (18 CFR 157.10).

Any person wishing to become a party to the proceeding or to participate as a party in any hearing which may be convened therein must file a petition to intervene in accordance with the above mentioned rules.

Pursuant to the authority contained in, and subject to the jurisdiction conferred upon the ERA by Section 3 of the Natural Gas Act and the rules of practice and procedure, a formal hearing will not be held on the proposed application if no petition to intervene is filed within the required time, or if the ERA on its own review of the matter finds that a grant of the application, without a hearing, is in the public interest. However, if during the appropriate comment period a request for such hearing is timely filed by an intervener and is granted by ERA, or if the ERA on its own motion believes that such a hearing is required, further notice of such hearing will be duly given.

Issued in Washington, D.C., on November 16, 1979.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 79-35926 Filed 11-19-79; 8:45 am]

BILLING CODE 6450-01-M

[ERA Case No. 65003-9069-02-77; Docket No. ERA-FC-79-003]

Suwannee River Chemical Complex, Boiler No. N.B. 24382, Occidental Chemical Co.

AGENCY: Economic Regulatory Administration, Department of Energy

ACTION: Determination to Classify the Occidental Chemical Company Suwannee River Boiler No. N.B. 24382 as an Existing Facility.

SUMMARY: On June 27, 1979, Occidental Chemical Company (Occidental) requested the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) to classify its Suwannee River Chemical Complex (Suwannee River) Boiler No. N.B. 24382 as an "existing" facility pursuant to § 515.13 of the Revised Interim Rule to Permit Classification of Certain Powerplants and Installations as Existing Facilities (Revised Interim Rule) issued by ERA on March 15, 1979 (44 FR 17464), and pursuant to the provisions of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. section 8301 et seq. (FUA).

ERA has completed its analysis of Occidental's request and has determined that Occidental has satisfactorily demonstrated that cancellation, rescheduling or modification of the construction or acquisition of the subject boiler would result in a significant operational deteriment under § 515.13(b) of the Revised Interim Rule.

Accordingly, ERA has determined that Occidental's Suwannee River Boiler No. N.B. 24382 is an "existing" facility, subject to the provisions of Title III of FUA.

FOR FURTHER INFORMATION CONTACT:

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

Constance L. Buckley, Chief, New MFBI Branch, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, 2000 M Street, NW.,

Room 3128, Washington, D.C. 20461, (202) 254–7814.

Robert L. Davies, Acting Assistant Administrator for Fuels Conversion, Department of Energy, 2000 M Street, Room 3128–L, Washington, D.C. 20461, (202) 634–6557.

G. Randolph Comstock, Acting Assistant General Counsel for Coal Regulations, Office of the General Counsel, Department of Energy, 1000 Independence Avenue, SW., Room G–087, Washington, D.C. 20585, (202) 252–2967.

SUPPLEMENTARY INFORMATION: (1) On June 27, 1979, pursuant to ERA's Revised Interim Rule to Permit Classification of Certain Powerplants and Installations as Existing Facilities issued by ERA on March 15, 1979, Occidental requested ERA to classify its Suwannee River Boiler No. N.B. 24382 as an existing facility. Two conferences had previously been held at Occidental's request on April 17, 1979, and June 1, 1979. On Tuesday, October 16, 1979, ERA published a summary of Occidental's request for classification (44 FR 59584) and requested comments by interested persons on or before November 6, 1979. No comments were received.

(2) Occidental requested confidential treatment under § 515.31(h) of the Revised Interim Rule for certain information it filed with its request on Schedules 1 and 2 of Form ERA–300B. That information is deleted from the copy of ERA's Summary of Analysis relating to this Determination that is available for examination in the Office of Public Information, at the above addresss.

Issued in Washington, D.C., November 13, 1979.

Robert L. Davies,

Acting Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 79–35655 Filed 11–19–79; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. RP80–29]

Algonquin Gas Transmission Co.; Tariff Filing To Comply With Order No. 49

November 9, 1979.

Take notice that Algonquin Gas Transmission Company ("Algonquin Gas") on November 1, 1979, tendered for filing eleven (11) tariff sheets to revise its FERC Gas Tariff, First Revised Volume No. 1.

Algonquin Gas states that the tendered sheets are being filed to comply with Order No. 49 of the Commission. Such sheets change the Purchased Gas Cost Adjustment Provision contained in Algonquin Gas' tariff by instituting provisions governing Incremental Pricing as required by Commission Order No. 49, it is said. The tariff sheets are proposed to be effective on December 1, 1979.

Algonquin Gas states that a copy of this filing is being served upon its affected customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 27, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–35740 Filed 11–19–79; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. ER 80–69]

Central Illinois Public Service Co.; Revised Appendix A to Wholesale Power Agreement With City of Sullivan

November 9, 1979.

The filing Company submits the following:

Take notice that on November 1, 1979 Central Illinois Public Service Company (CIPS) tendered for filing Revised Appendix A to the agreement for the purchase of wholesale electric energy by the City of Sullivan.

Said Revised Appendix A modifies the Scheduled Power and Energy charges under the Agreement.

CIPS requests an effective date of January 1, 1980 for the Revised Appendix A.

A copy of the filing has been sent to the City of Sullivan and the Illinois Commerce Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C., 20426 in accordance with SS 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions should be filed on or before November 30, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–35741 Filed 11–19–79; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. ER80–71]

Central Illinois Public Service Co.; Change in FERC Electric Tariffs

November 9, 1979.

The filing Company submits the following:

Take notice that on November 2, 1979, Central Illinois Public Service Company tendered for filing revisions in Rate Schedules W–1, W–2 and W–3. The revisions are as follows:

1. *W–1 (FERC Electric Tariff, Original Volume No. 1.) for wholesale electric service to electric cooperatives:* The proposed revisions would increase revenues from jurisdictional sales and service by $6,630,300 based on calendar year 1979.

The proposed revisions will become applicable on January 1, 1980. The proposed revisions resulted from a settlement which was reached after extended negotiations. The proposed revisions contain an upward adjustment in the rate level to more adequately reflect current and anticipated economic conditions.

2. *W–2 (FERC Electric Tariff, Original Volume No. 2) for wholesale electric service to municipal customers purchasing their total requirements:* The proposed revisions would increase revenues from jurisdictional sales and service by $3,200,000 based on calendar year 1979.

The proposed revisions will become effective on January 1, 1980. Central Illinois Public Service Company states that the revised tariff will be applicable on that date for service being provided to municipalities currently served under Rate Schedule W–2, and to the remaining municipalities upon the expiration of the effective period for the rates and charges currently specified in the various agreements between the Company and the remaining municipalities. The proposed revisions contain an upward adjustment in the rate level to more adequately reflect current and anticipated economic conditions.

3. *W–3 (FERC Electric Tariff, Original Volume No. 3) for wholesale electric service to customers purchasing partial requirements to supplement their own generation:* The proposed tariff would increase revenues from jurisdictional sales and service by $1,090,860 based on calendar year 1979.

The proposed tariff will become effective January 1, 1980 and applicable for service

being provided to the customers upon the expiration of the various effective periods for the rates and charges currently specified in the agreements between the Company and the customers. The proposed tariff contains an upward adjustment in the rate level to more adequately reflect current and anticipated economic conditions.

Copies of the appropriate filing were served upon the Company's jurisdictional customers and the Illinois Commerce Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 3, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-35742 Filed 11-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER80-76]

Central Louisiana Electric Co., Inc.; Filing

November 9, 1979.

The filing Company submits the following:

Take notice that on November 7, 1979, Central Louisiana Electric Company, Inc. (Cleco) tendered for filing a Letter Agreement dated September 12, 1979 covering the sale of 60 MW of surplus capacity to Gulf States Utilities Company (GSU) for twelve (12) months beginning January 1, 1980. It also provides for the sale of an additional 150 MW of surplus capacity to GSU for five (5) months beginning January 1, 1980. Cleco states that GSU desires to purchase this capacity for its system needs and Cleco agrees to provide this capacity and that the Agreement will be beneficial to both systems. Cleco Further states that deliveries will be made over existing interconnection facilities.

Cleco proposes an effective date of January 1, 1980, and therefore requests waiver of the Commission's notice requirements.

According to Cleco copies of this filing have been sent to GSU.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 3, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-35743 Filed 11-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER80-74]

Central Louisiana Electric Co., Inc.; Transmission Service

November 9, 1979.

The filing Company submits the following:

Take notice that on November 7, 1979 Central Louisiana Electric Company, Inc. (CLECO) tendered for filing a Letter Agreement, dated September 18, 1979. providing for transmission service to Gulf States Utilities Company (GSU) for twelve (12) months beginning January 1, 1980. CLECO further states that the transmission service will be made over existing interconnection facilities.

CLECO proposes an effective date of January 1, 1980, and therefore requests waiver of the Commission's notice requirements.

According to CLECO copies of this filing have been sent to the Louisiana Public Service Commission, GSU, Oklahoma Gas & Electric Company, Arkansas Power & Light Company, and Louisiana Power & Light Company.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8, 1.10 of the Commission's Rules of Practice and Procedures (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 3, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-35744 Filed 11-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER80-75]

Central Louisiana Electric Co., Inc.; Surplus Capacity Sale

November 9, 1979.

The filing Company submits the following:

Take notice that on November 7, 1979, Central Louisiana Electric Company, Inc. (CLECO) tendered for filing a Letter Agreement dated August 28, 1979 covering the sale of 200 MW of surplus capacity to Gulf States Utilities Company (GSU) for twelve (12) months beginning January 1, 1980, and shall continue thereafter on a month to month basis until the 345 KV interconnection between GSU and Southwestern Electric Power Company (SWEPCO) has been completed, but in any event this agreement shall terminate no later than May 31, 1981. CLECO states that GSU desires to purchase this capacity for its system needs and CLECO agrees to provide this capacity and that the Agreement will be beneficial to both systems. The Agreement is contingent upon CLECO obtaining equivalent capacity and energy from SWEPCO and upon CLECO obtaining approval of all regulatory bodies having jurisdiction. CLECO further states that deliveries will be made over existing interconnection facilities.

CLECO proposes an effective date January 1, 1980, and therefore requests waiver of the Commission's notice requirements.

According to CLECO copies of this filing have been sent to the Louisiana Public Service Commission, GSU and SWEPCO.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8, 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 3, 1979. Protests will be considered by the Commission in detrmining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to

become a party must file a petition to intervene.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-35745 Filed 11-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER80-77]

Cincinnati Gas & Electric Co.; Proposed Rate

November 9, 1979.

The filing company submits the following:

Take notice that The Cincinnati Gas & Electric Company (Cincinnati) tendered for filing on November 6, 1979, a proposed revision of its Short Term Power rate based upon an agreement between Cincinnati and Louisville Gas and Electric Company (Louisville) executed on October 1, 1979. The proposed rate change provides for an increase in the demand charge from $.60 per kilowatt to $.70 per kilowatt per week, and an increase in the reduction rate from $.10 per kilowatt to $.12 per kilowatt.

The date on which service under the revised schedule is expected to commence on October 1, 1979. An estimate of the sales and revenues under this revised rate schedule is not feasible because use will be scheduled only as load conditions dictate. There were no sales or revenues under the present rate in the twelve months ending August 1, 1979.

The filing company requests that the Commission waive any requirements not already complied with under Section 35.12 of its Regulations and that an effective date prior to the filing date be approved pursuant to Section 35.11.

A copy of this filing has been mailed to Louisville Gas and Electric Company.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 3, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-35746 Filed 11-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP80-20]

Colorado Interstate Gas Co.; Tariff Filing

November 9, 1979.

Take notice that Colorado Interstate Gas Company, on November 1, 1979, tendered for filing proposed tariff sheets which will establish in its FERC Gas Tariff an incremental pricing surcharge provision and a revised PGA provision in conformance with Section 282.601 of the Commission's Regulations.

CIG requests that the instant filing be made effective on December 1, 1979.

Copies of the filing have been served upon the Company's jurisdictional customers and other interested persons, including public bodies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 26, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-35747 Filed 11-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP80-33]

Columbia Gas Transmission Corp.: Proposed Changes in FERC Gas Tariff

November 9, 1979.

Take notice that Columbia Gas Transmission Corporation (Columbia) on November 1, 1979, tendered for filing proposed changes in its FERC Gas Tariff, Original Volume No. 1, as follows:

Eleventh Revised Sheet No. 64.
Twenty-sixth Revised Sheet No. 64A.
Seventeenth Revised Sheet No. 64B.
Second Revised Sheet No. 64C.
Original Sheet No. 64D.
Original Sheet No. 64E.
Original Sheet No. 64F.
Original Sheet No. 64G.
Original Sheet No. 64H.
Original Sheet No. 64I.

Columbia states that the foregoing tariff sheets effective December 1, 1979, are being filed to revise the provisions of Section 20 (Purchased Gas Cost Adjustment) of Columbia's tariff to reflect the Incremental Pricing Provisions of the Natural Gas Policy Act of 1978 as set forth in Order No. 49, Final Rule, issued September 28, 1979 at Docket No. RM79-14.

Copies of the filing were served upon the Company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before Nov. 27, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-35748 Filed 11-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP80-12]

Consolidated Gas Supply Corp.; Proposed Changes in FERC Gas Tariff

November 9, 1979.

Take notice that Consolidated Gas Supply Corporation (Consolidated) on November 1, 1979 tendered for filing revised tariff sheets pursuant to Sections 154.38 and 282.601 of the Commission's Regulations. The revised tariff sheets, proposed to be effective December 1, 1979, were filed to implement the incremental pricing surcharge provisions and corresponding reduced PGA provisions as prescribed in Order No. 49 issued September 28, 1979 in Docket No. RM79-14.

Included in the filing were:

Original Sheet Nos. 67-A, 70-A, 72-A, 72-B, 72-C;
Second Revised Sheet Nos. 67, 71-A, 72;
Third Revised Sheet Nos. 66, 69, 70;
Fourth Revised Sheet No. 68; and
Fifth Revised Sheet No. 71.

Copies of this filing were served upon Consolidated's jurisdictional customers as well as interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 26, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-35749 Filed 11-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP80-35]

Eastern Shore Natural Gas Co.; Tariff Filing

November 9, 1979.

Take notice that Eastern Shore Natural Gas Company (Eastern Shore), on November 1, 1979, tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets, to become effective December 1, 1979:

First Revised Sheet No. 249.
Original Sheet No. 254.

Eastern Shore states that the purpose of the filing is to revise Eastern Shore's FERC Gas Tariff in order to comply with the requirements prescribed in the Commission's Incremental Pricing Rule, Order No. 49, issued September 25, 1979 in Docket No. 79-14, 18 CFR Part 282. First Revised Sheet No. 249 revises Eastern Shore's PGA provision by incorporating the requirements of Subpart E of Part 282 of the Commission's incremental pricing regulations. Original Sheet No. 254 adds an incremental pricing surcharge provision to Eastern Shore's tariff in accordance with Subpart F of Part 282.

The Company states that copies of the filing have been sent to its customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 C.F.R. §§ 1.8, 1.10). All such petitions or protests should be filed on or before November 27, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-35750 Filed 11-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ES80-13]

El Paso Electric Co.; Application

November 9, 1979.

Take notice that on October 30, 1979, El Paso Electric Company (Applicant) filed an application with the Commission, pursuant to Section 204 of the Federal Power Act and Part 34 of the Commission's Regulations for authority to negotiate the private placement of up to $10 million of new Preferred Stock. The Applicant is a Texas Corporation, with its principal office at EL Paso, Texas, and is engaged in the electric utility business in Texas and New Mexico.

The net proceeds from the sale of the Preferred Stock will be used to repay short-term debt outstanding and for other corporate purposes.

Any person desiring to be heard or to make any protest with reference to the application should on or before November 30, 1979, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, petitions or protests in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-35751 Filed 11-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP80-32]

El Paso Natural Gas Co.; Tariff Filing

November 9, 1979.

Take notice that on November 1, 1979, El Paso Natural Gas Company ("El Paso") tendered for filing, in compliance with the Federal Energy Regulatory Commission's ("Commission") Order No. 49 issued September 28, 1979, at Docket No. RM79-14, and pursuant to Part 154 of the Commission's Regulations Under the Natural Gas Act, certain proposed original and revised tariff sheets to its FERC Gas Tariff, Original Volume Nos. 1 and 2A. Such proposed tariff sheets are identified on the attached Appendix.

El Paso states that on September 28, 1979, the Commission issued a series of rulemaking orders and related rulemaking notices designed to implement the first phase of the incremental pricing program set forth in Title II of the Natural Gas Policy Act of 1978 ("NGPA") which directs the Commission to promulgate a rule providing for the passthrough of specified portions of certain gas acquisition costs incurred by interstate pipelines to industrial boiler fuel users of natural gas. The Commission's Order No. 49, issued at Docket No. RM79-14, adopted regulations establishing procedures for the actual calculation and billing of incremental pricing surcharges and procedures by which industrial boiler fuel facilities statutorily exempt from the incremental pricing program could obtain such exemption. Section 282.601 of the Commission's Regulations Under the NGPA requires each interstate pipeline to file, by November 1, 1979, revised tariff sheets reflecting revisions to its existing Purchased Gas Cost Adjustment ("PGAC") provision[1] and the establishment of an Incremental Pricing Adjustment provision in accordance with the provisions of said Order No. 49.

El Paso states that the tendered tariff sheets to its Original Volume Nos. 1 and 2A Tariff were filed in compliance with the filing requirements of said Section 282.601 of the Commission's Regulations Under the NGPA. As fully set forth in the subject filing, the tendered Orignial Volume No. 1 tariff sheets are designed to (i) effectuate the utilization of the "reduced PGA" approach of determining PGAC rate increases provided for in Section 282.503 of the Commission's Regulations Under the NGPA, (ii) incorporate an Incremental Pricing Adjustment provision which will govern the operation of El Paso's incremental pricing passthrough mechanism, and (iii) make certain minor modifications to the existing language of El Paso's PGAC provision in order to clarify the overall operation of such provision under the incremental pricing program established by Order No. 49. El Paso further states

[1] El Paso's PGAC provision is contained in Section 19 of the General Terms and Conditions of its Original Volume No. 1 Tariff and applies to all rate schedules contained in said Volume No. 1 Tariff, as well as certain special rate schedules contained in El Paso's Third Revised Volume No. 2 and Original Volume No. 2A Tariff.

that tendered Original Volume No. 2A tariff sheets are designed to modify El Paso's existing PGAC-Clean High Pressure Gas Provision ("PGAC–CHPG")[2] by establishing provisions similar to those described above applicable to El Paso's PGAC in order to provide for the passthrough of gas costs subject to incremental pricing to non-exempt boiler fuel facilities which may be served in the future by those sale-for-resale customers currently purchasing clean, high pressure pipeline quality gas from El Paso.[3]

El Paso states that, inasmuch as it presently does not sell, either directly or indirectly, clean, high pressure, pipeline quality gas to any industrial boiler fuel facility, the incremental pricing provisions established at Docket Nos. RM79–14 and RM79–21 are not applicable to the PGAC–CHPG provisions at this time. Therefore, and for purposes of administrative convenience, El Paso has respectfully requested that the Commission grant such waiver of its Regulations Under the NGPA as may be necessary in order that El Paso may defer the maintenance of the incremental pricing gas costs and surcharges accounts provided for in Section 282.502 of the Commission's Regulations Under the NGPA until such time as El Paso sells clean, high pressure, pipeline quality gas, either directly or indirectly, to an industrial boiler fuel facility prusuant to its Original Volume No. 2A Tariff.

El Paso has requested that the tendered original and revised tariff sheets reflecting the modifications to its existing PGAC and PGAC–CHPG provisions, as required by the Commission's Order No. 49, be accepted for filing and permitted to become effective on December 1, 1979, the effective date provided for in Section 282.601(c) of the Commission's Regulations Under the NGPA.

El Paso states that copies of the filing have been served upon all of El Paso's interstate transmission system customers and all interested state regulatory commissions.

Any person desiring to be heard or to make any protest with reference to said tariff filing should, on or before November 27, 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, 1.10) and the Regulations Under the Natural Gas Act (18 CFR 157.10). Protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party to a proceeding must file a petition to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

El Paso Natural Gas Co.

Tariff sheets applicable to El Paso's Purchased Gas Cost Adjustment Provision contained in its FERC Gas Tariff, Original Volume No. 1:

Eighth Revised Sheet No. 67.
Fifth Revised Sheet No. 67–A.
Fifth Revised Sheet No. 67–B.
Fourth Revised Sheet No. 67–C.
Sixth Revised Sheet No. 67–D.
First Revised Sheet No. 67–D.1.
Original Sheet No. 67–D.2.
Original Sheet No. 67–D.3.
Original Sheet No. 67–D.4.
Original Sheet No. 67–D.5.
Original Sheet No. 67–D.6.
Original Sheet No. 67–D.7.
Original Sheet No. 159.

Tariff sheets applicable to El Paso's Purchased Gas Cost Adjustment Provision—Clean High Pressure Gas contained in its FERC Gas Tariff, Original Volume No. 2A:

Third Revised Sheet No. 1–E.
Second Revised Sheet No. 1–F.
Second Revised Sheet No. 1–G.
Second Revised Sheet No. 1–H.
Sixth Revised Sheet No. 1–I.
First Revised Sheet No. 1–J.
First Revised Sheet No. 1–K.
First Revised Sheet No. 1–L.
First Revised Sheet No. 1–M.

[FR Doc. 79–35752 Filed 11–19–79; 8:45 am]
BILLING CODE 6450–01–M

[2] El Paso's PGAC–CHPG provision specifies the procedures to be utilized in adjusting rates under special Rate Schedules FS–3, FS–6, FS–7, FS–10, and FS–32 contained in El Paso's Original Volume No. 2A Tariff in order to reflect changes in the weighted average cost per Mcf of clean, high pressure, pipeline quality gas purchased by El Paso in the Permian Basin area of west Texas and southwest New Mexico.

[3] At the present time, El Paso only makes sales of clean, high pressure, pipeline quality gas to those sale-for-resale customers identified on sheet No. 1–D of El Paso's Original Volume No. 2A Tariff who are being served under the rate schedules listed in footnote 2 *supra*. None of the volumes of gas purchased by such sale-for-resale customers are used to serve industrial boiler fuel facilities. However, in compliance with the directives of the Commission's Order No. 49 respecting revisions to existing PGAC clauses, El Paso is modifying such PGAC–CHPG in order that gas costs subject to incremental pricing may be passed through in a timely fashion to any non-exempt boiler fuel facility which may be served in the future by those sale-for-resale customers purchasing clean, high pressure, pipeline quality gas from El Paso. El Paso presently does not sell clean, high pressure, pipeline quality gas directly to industrial facilities for boiler fuel purposes.

[Docket No. RP80–26]

Granite State Gas Transmission, Inc.; Proposed Tariff Changes

November 9, 1979.

Take notice that Granite State Gas Transmission, Inc. (Granite State), 66 Market Street (P.O. Box 508), Portsmouth, New Hampshire 03801, on November 1, 1979, tendered for filing with Federal Energy Regulatory Commission, the following revised tariff sheets for effectiveness December 1, 1979 in its FERC Gas Tariff, Original Volume No. 1:

Second Revised Sheet No. 32B.
Third Revised Sheet No. 32C.
Second Revised Sheet No. 32D.
First Revised Sheet No. 32E.
First Revised Sheet No. 32F.
Original Sheet No. 32G.

According to Granite State, the foregoing tariff sheets revise the Purchased Gas Cost Rate Adjustment provision in Section XX of the General Terms and Conditions in its tariff to comply with the requirements of the Commission's Order No. 49 in Docket No. RM79–14 relating to the incremental pricing provisions of the Natural Gas Policy Act of 1978. Granite State also states that the filing includes a change in the method of computing interest on carrying charges in the Unrecovered Gas Costs Account to conform to the requirements of Order No. 47, Docket No. RM77–22, issued September 10, 1979.

Granite State further states that copies of its filing have been served on its only jurisdictional customer, Northern Utilities, Inc., and the Public Utility Commissions of the States of Maine and New Hampshire.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before Nov. 27, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–35753 Filed 11–19–79; 8:45 am]
BILLING CODE 6450–01–M

[Docket No. RP80-8]

Kansas-Nebraska Natural Gas Co., Inc.; Proposed Changes in FERC Gas Tariff

November 9, 1979.

Take notice that Kansas-Nebraska Natural Gas Company, Inc., on October 31, 1979 tendered for filing proposed changes in its FERC Gas Tariff, Third Revised Volume No. 1. The proposed change would increase revenues from jurisdictional sales and service by $3,029,268 based on the 12-month period ending June 30, 1979, as adjusted for known and reasonably measurable changes.

Kansas-Nebraska states that the jurisdictional rates filed herewith are designed to enable Kansas-Nebraska to recover increases in its jurisdictional cost of service resulting from: (1) additional facilities required to connect new sources of supply and to maintain deliverability from existing sources of supply; (2) increased gas and royalty costs; (3) increased operating costs including higher costs of labor, materials and supplies; (4) increased revenues needed to provide a return of 11.45% on its utility investment; and (5) increased income, payroll and property taxes.

Kansas-Nebraska has also proposed changes to Section 19 of the General Terms and Conditions of its FERC Gas Tariff to provide for the tracking of increased gas royalties attributable to pipeline owned production which is priced on a cost of service basis and the tracking of changes in the prices of company-owned production which is not priced on a cost of service basis.

Copies of the filing were served upon the company's jurisdictional customers and interested public bodies.

Kansas-Nebraska requests that the tendered sheets be accepted for filing and be permitted to become effective after 30 days following the date of filing.

Any person desiring to be heard or make any protest with reference to this filing should, on or before November 26, 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, 1.10) under the Regulations of 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. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-35754 Filed 11-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP80-10]

Kansas-Nebraska Natural Gas Co., Inc.; Proposed Changes in FERC Gas Tariff

November 9, 1979.

Take notice that Kansas-Nebraska Natural Gas Company, Inc. (Kansas-Nebraska) on October 31, 1979 tendered for filing proposed changes in its FERC Gas Tariff, Third Revised Volume No. 1. The proposed changes will establish an incremental pricing surcharge provision in Kansas-Nebraska's FERC Gas Tariff and provide for the pass-through of costs in accordance with Part 282 of the Commission's Regulations.

Kansas-Nebraska states that this filing is made to establish the procedures to be followed by Kansas-Nebraska in implementing the incremental pricing rule established by the Commission in accordance with Title II of the Natural Gas Policy Act of 1978. Pursuant to the Commission's Regulations the filing is to become effective on December 1, 1979.

Copies of the filing were served upon the company's jurisdictional customers, interested public bodies and all direct and indirect customers which will be subject to the incremental pricing surcharge provision.

Any person desiring to be heard or make any protest with reference to this filing should, on or before November 28, 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) under the Regulations of 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. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-35756 Filed 11-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. SA80-11]

Midwestern Gas Transmission Co., et al.; Joint Application for Adjustment and Request for Interim Relief

November 9, 1979.

In the matter of Midwestern Gas Transmission Company, Great Lakes Gas Transmission Company, Tennessee Gas Pipeline Company, a Division of Tenneco Inc., Northern Natural Gas Company, Natural Gas Pipeline Company of America.

On October 26, 1979, Midwestern Gas Transmission Company (Midwestern) and Great Lakes Gas Transmission Company (Great Lakes) filed a joint application in Docket No. SA80-11 pursuant to Section 502(c) of the Natural Gas Policy Act of 1978 (NGPA) and Section 1.41 of the Commission's Rules of Practice and Procedure, 18 CFR § 1.41, for an adjustment exempting certain purchased gas costs associated with volumes of gas purchased from TransCanada Pipelines Limited (TransCanada) and imported from Canada from the applicability of the incremental pricing regulations adopted by the Commission in Order No. 49 issued September 28, 1979, in Docket No. RM79-14, all as more fully set forth in the application on file with the Commission and open to public inspection.

In the alternative and in the event Midwestern's and Great Lakes' foregoing application is denied, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), Northern Natural Gas Company (Northern), and Natural Gas Pipeline Company of America (Natural) jointly with Midwestern and Great Lakes, request an adjustment exempting Midwestern's Northern System and Great Lakes from the application of the incremental pricing regulation and providing for treatment of the pertinent portion of the purchased gas costs associated with the imported volumes as part of the incremental gas acquisition costs determined directly for Tennessee, Northern and Natural in proportion to their respective purchases as more fully set forth in the application on file with the Commission.

Since a grant of either of the foregoing applications would result in Midwestern and Great Lakes having no

incrementally priced gas supplies, Midwestern and Great Lakes accordingly request an adjustment exempting Midwestern's Northern System and Great Lakes and their general system customers, to the extent of their service from Midwestern and Great Lakes, from the specific filing, reporting, rate and accounting requirements of Part 282 of the Commission's Regulations promulgated in Order No. 49 as more fully set forth in the application on file with the Commission.

Because of the impending deadlines for compliance with the incremental pricing regulations by Midwestern, Great Lakes, Tennessee, Northern and Natural, interim relief pursuant to Section 1.41(m) of the Commission's Rules of Practice and Procedure is also requested to maintain the status quo pending decision on the foregoing applications for adjustment. Specifically, Midwestern and Great Lakes request an interim exemption from the applicability of the incremental pricing regulations (1) to the purchased gas costs associated with the 132 Bcf imported from TransCanada, and (2) to Midwestern's Northern System and Great Lakes as more fully set forth in the application on file with the Commission.

I

Midwestern and Great Lakes state that, by Order of September 25, 1979, in *Midwestern Gas Transmission Company, et al.*, Docket Nos. CP66–110, *et al.* (September 25 Order), the Commission approved, *inter alia*, (1) the importation by Midwestern of additional total quantities of natural gas of 114 Bcf until October 31, 1980, and (2) the importation by Great Lakes of 18 Bcf of gas over the same period. In each case, the import authorizations were necessary only because of daily and annual restrictions in the export authorizations of TransCanada and similar restrictions in the existing import authorizations of both Midwestern and Great Lakes. In neither case was the total quantity of gas to be imported pursuant to the September 25 Order in excess of that previously authorized for export by the National Energy Board (NEB) in Canada and for import by the Commission.

Midwestern and Great Lakes state that a strict, literal reading of Section 207 of the NGPA and Section 282.301(e) of the Commission's Regulations Promulgated by Order No. 49 suggests that the purchased gas costs of the 114 Bcf of gas to be imported by Midwestern and the 18 Bcf of gas to be imported by Great Lakes may be subject to incremental pricing and result in incremental acquisition costs which must be passed through to Midwestern's Northern System and Great Lakes' general system customers as incremental pricing surcharges. However, Midwestern and Great Lakes assert that the applicability of the incremental pricing provisions of the NGPA to include the 132 Bcf to be imported by Midwestern and Great Lakes would impose an inequitable and unnecessary hardship on Midwestern's Northern System and Great Lakes' general system customers and, moreover, produce a result contrary to the purposes of the incremental pricing program. Accordingly, Midwestern and Great Lakes submit that an adjustment exempting these imports from the incremental pricing regulations is clearly appropriate and, further, would be entirely consistent with the purposes of the incremental pricing program.

II

In the event the Commission deems it inappropriate to exempt the purchased gas costs for the imported volumes in question from incremental pricing generally, then Midwestern and Great Lakes state that an adjustment should be granted exempting Midwestern's Northern System and Great Lakes from the requirements of incremental pricing subject to the condition that Tennessee, Northern and Natural treat the gas purchased from Midwestern as their own imported supplies. Neither Midwestern nor Great Lakes have any incrementally priced acquisition costs other than those potentially attributable to the 132 Bcf imported from TransCanada and the 114 Bcf imported by Midwestern will not flow to any of its general system customers and only a part of the 18 Bcf imported by Great Lakes will utimately flow to Natural, the only general system customer of Great Lakes receiving any of such gas. Midwestern and Great Lakes therefore state that an adjustment exempting Midwestern and Great Lakes from the requirements of the incremental pricing regulations would not result in the costs of the 132 Bcf of gas or any other gas supplies escaping from the determination of incremental acquisition costs, but rather would only ensure that those costs are borne by the customers receiving the benefit of the increased gas supplies—the customers of Tennessee, Northern and Natural. Accordingly, Midwestern and Great Lakes submit that treatment of the supplies by those three pipelines as part of their own incrementally priced acquisition costs would not be inequitable nor impose any hardship or burden on their customers and in fact would be highly appropriate and consistent with the intent of the incremental pricing provisions of the NGPA and the Commission's Regulations thereunder.

III

Subparts E and F of Part 282 of the Commission's Regulations impose various accounting and filing requirements on interstate pipelines, including Midwestern and Great Lakes. In addition, compliance with these requirements requires substantial effort on the part of Midwestern's and Great Lakes' distribution company customers in the calculation of the maximum surcharge absorption capability (MSAC) for their local systems for reporting to Midwestern and Great Lakes. Midwestern and Great Lakes state that the needless impostion of this burden would not be in the public interest and would not further the purposes of the incremental pricing provisions of the NGPA and, accordingly, that an adjustment should be granted specifically exempting Midwestern's Northern System and Great Lakes and their general system customers, to the extent of their service from Midwestern and Great Lakes, from the requirements of part 282 of the Commission's Regulations.

IV

During the period while this adjustment application is pending, Midwestern and Great Lakes state that they and their distribution company customers, in order to comply with the incremental pricing regulations, will incur unnecessary administrative burdens and, in addition, if the application is not acted on and the requested relief granted prior to January 1, 1980 (the effective date for the rates reflecting incremental pricing surcharges), Midwestern's Northern System and Great Lakes' general system customers will be subject to a significant and inequitable hardship. Accordingly, Midwestern and Great Lakes request interim relief pursuant to Section 1.41(m) of the Commission's Rules of Practice and Procedure.

The procedure applicable to the conduct of this adjustment proceeding are found in Section 1.41 of the Commission's Rules of Practice and Procedure, Order No. 24 issued March 22, 1979.

Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of Section 1.41. All

petitions to intervene must be filed on or before December 5, 1979.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-35757 Filed 11-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP74-14, PGA 79-2]

Mountain Fuel Resources, Inc.; Tariff Sheet Filing

November 9, 1979.

Take notice that on November 1, 1979, Mountain Fuel Resources, Inc. (Resources) pursuant to § 154.62 and § 154.38 of the Commission's Regulations under the Natural Gas Act, filed Ninth Revised Sheet No. 7 and Second Revised Sheet No. 23 to its FERC Gas Rate Schedule No. 1. Resources states that the Ninth Revised Sheet No. 7 relates to the Unrecovered Purchased Gas Cost Account of the Purchased Gas Adjustment Provisions authorized by RP74-14. More specifically, the tariff sheet reflects a net increase from that currently being collected of 23.08 cents per Mcf to be effective December 1, 1979. The Second Revised Sheet No. 23 reflects a change in filing and effective dates for Resources' semi-annual PGCA.

Any person desiring to be heard and to make any protest with reference to said filing should on or before November 27, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing must file petitions to intervene in accordance with the Commission's Rules. Resources' tariff filing is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

FR Doc. 79-35758 Filed 11-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP80-11]

Natural Gas Pipeline Co. of America; Notice of Proposed Changes in FERC Gas Tariff

November 9, 1979.

Take notice that on November 1, 1979, Natural Gas Pipeline Company of America (Natural) tendered for filing proposed changes in its FERC Gas Tariff, Third Revised Volume No. 1, to implement the incremental pricing provisions of the Natural Gas Policy Act of 1978, pursuant to Order No. 49, issued September 28, 1979, at Docket No. RM79-14. Natural states the proposed changes will make effective:

Original Sheet No. 152.
Original Sheet No. 153.
Fifth Revised Sheet No. 116.
Second Revised Sheet No. 117.
Fourth Revised Sheet No. 118.
Eleventh Revised Sheet No. 119.
Fifth Revised Sheet No. 120.
Ninth Revised Sheet No. 120-A.
Fourth Revised Sheet No. 121.

Copies of this filing were served upon the company's customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedures (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 26, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-35759 Filed 11-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP79-68]

North Penn Gas Co.; Notice of Proposed Changes in FERC Gas Tariff and of Motion To Make Changes Effective

November 9, 1979.

Take notice that North Penn Gas Company (North Penn) on October 31, 1979 tendered for filing Sixty-Second Revised Sheet No. PGA-1 to its FERC Gas Tariff, First Revised Volume No. 1 and a motion to make rates and charges effective after suspension. The revised tariff sheet is proposed to become effective November 1, 1979, subject to refund, in lieu of the rates filed April 30, 1979; in the above docket, which were suspended until November 1, 1979.

North Penn states that Sixty-Second Revised Sheet No. PGA-1 is being filed pursuant to Section 4 of the Natural Gas Act and that the rates contained therein have been adjusted to reflect the intervening changes in cost of pipeline purchased gas contained in North Penn's April 30, 1979 filing.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 26, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-35760 Filed 11-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP80-28]

Northern Natural Gas Co.; Notice of Proposed Changes in PGA Provision and Proposed Incremental Surcharge Provision

November 9, 1979.

Take notice that on November 1, 1979, Northern Natural Gas Company (Northern) tendered for filing, as part of Northern's F.E.R.C. Gas Tarriff, Third Revised Volume No. 1 and Original Volume No. 2, the following tariff sheets:

Third Revised Volume No. 1:

Original Sheet No. 4c.
Third Revised Sheet No. 65.
Second Revised Sheet Nos. 66, 67, 68.
Third Revised Sheet No. 69.
Second Revised Sheet No. 70.
Original Sheet Nos. 70a through 70j.
Third Revised Sheet No. 71.

Original Volume No. 2:

Original Sheet No. 1b.1.
First Revised Sheet Nos. 1d, 1e, 1f.
Second Revised Sheet Nos. 1g, 1h, 1i.
Original Sheet Nos. 1i.1 through 1i.9.

Such revised tariff sheets are required in order that Northern may make certain changes in its tariffs required under Section 282.601 of the Commission's Regulations under Title II of the Natural Gas Policy Act of 1978 (NGPA) which provides that each interstate pipeline shall file with the Commission an incremental pricing surcharge provision and a revised PGA provision in accordance with the requirements of Part 282 of Subchapter I of Chapter 1 of the Regulations.

The Company states that copies of the filing have been mailed to each of its

Gas Utility customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before Nov. 28, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-35761 Filed 11-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Dockets Nos. RP72-154 (PGA No. 79-2) and RP74-72 (DCA No. 79-2)]

Northwest Pipeline Corp.; Notice of Proposed Change in Rates

November 9, 1979.

Take notice that on October 30, 1979 Northwest Pipeline Corporation ("Northwest") tendered for filing pursuant to Part 154 of the Commission's Regulations under the Natural Gas Act, the following revised tariff sheet to become effective October 1, 1979:

Third Substitute Twenty-third Revised Sheet No. 10.

By order issued September 28, 1979 in the captioned proceedings, the Commission conditionally accepted, subject to refund, Alternate Substitute Twenty-third Revised Sheet No. 10, effective October 1, 1979. Said tariff sheet was tendered August 16, 1979 in Northwest's PGA filing to reflect its increased cost of purchased gas pursuant to Article 16 in Northwest's Volume No. 1 Tariff.

The Commission's order was conditioned that Northwest file a revised tariff sheet reflecting elimination of producer and pipeline supplier costs which those suppliers were not authorized to charge on October 1, 1979. After recalculating its cost of purchased gas as ordered, the annualized change amounts to ($425,042) or (.011¢) per therm.

As more fully explained in the instant filing, Northwest respectfully requests waiver of the Commission's condition in its September 28, 1979 order and that its rates "as filed" on August 16, 1979 remain unchanged due to (1) the minimal cost effect on its customers, and (2) the *de minimus* amount will be returned to the customers through the normal operations of Account 191 and reflected in the special PGA filing on December 1, 1979 to be effective January 1, 1980 pursuant to the incremental pricing regulations.

A copy of this filing has been served on all of Northwest's customers and affected state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 26, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-35762 Filed 11-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP80-34]

Northwest Pipeline Corp.; Notice of Change in FERC Gas Tariff

November 9, 1979.

Take notice that on November 1, 1979 Northwest Pipeline Corporation ("Northwest") tendered for filing the following tariff sheets as part of its FERC Gas Tariff, Original Volume No. 1:

Original Sheet No. 10-B.
Fourth Revised Sheet No. 56.
Third Revised Sheet No. 57.
Third Revised Sheet No. 58.
Second Revised Sheet No. 59.
Third Revised Sheet No. 60.
Original Sheet No. 60-A through 60-D.

As more fully explained in the instant filing, these tariff sheets revise Article 16, *Purchased Gas Cost Adjustment Provision,* of the General Terms and Conditions of said Tariff to incorporate the Incremental Pricing Provisions of Title II of the Natural Gas Policy Act of 1978 pursuant to Order No. 49 and to incorporate procedures for determining carrying charges on Account No. 191 pursuant to Order No. 47.

The proposed effective date of the tendered tariff sheets is December 1, 1979. A copy of this filing has been served on Northwest's customers and affected state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 27, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-35763 Filed 11-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. SA80-12]

Oklahoma Natural Gas Gathering Corp.; Notice of Application for Adjustment

November 9, 1979.

On October 26, 1979, Oklahoma Natural Gas Gathering Corporation (Gathering) filed with the Federal Energy Regulatory Commission an application for an adjustment under Part 282 of the Commission's Rules under the NGPA wherein Gathering sought be permitted to (1) determine, as required by Order No. 49, the incremental natural gas costs that would require a surcharge above a base rate on its system each month and report those costs to Cities Service Gas Company (Cities Service) so that Cities Service can use those costs in determining the allocations of incremental costs to its MSAC's; (2) be exempt from performing all other tasks required by incremental pricing rules unless it may at some time have another customer which would have industrial loads which might be required to absorb incremental costs.

The procedures applicable to the conduct of this adjustment proceeding are found in § 1.41 of the Commission's Rules of Practice and Procedure, Order No. 24 issued March 22, 1979.

Any persons desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of § 1.41. All petitions to intervene must be filed within 15 days

after publication of this notice in the Federal Register.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-35764 Filed 11-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP80-19]

Pacific Interstate Transmission Co., Notice of Proposed Changes in FERC Gas Tariff Pursuant to Incremental Pricing Provisions

November 9, 1979.

Take notice that Pacific Interstate Transmission Company (Pacific Interstate) on November 1, 1979 tendered for filing as part of its FERC Gas Tariff, Original Volume No. 2, the following sheets:

Thirteenth Revised Sheet No. 4.
Tenth Revised Sheet No. 5.
Second Revised Sheet No. 36.
Original Sheet No. 39.
Original Sheet No. 40.
Original Sheet No. 41.

Pacific Interstate states that the above tendered tariff sheets are issued pursuant to the provisions of Order No. 49, Docket No. RM79-14 Subpart F §282.601(a)(b)(c) to revise the present Purchased Gas Cost Adjustment (PGCA) Provision and establish an Incremental Pricing Surcharge Provision. The proposed effective date of these tendered tariff sheets is December 1, 1979.

Pacific Interstate states that this FERC Gas Tariff, Original Volume No. 2 is available to one affiliated customer only, Pacific Lighting Supply Company, a sale for resale customer.

Any person desiring to be heard or to protest said should file a petition to intervene or protest with the Federal Energy Regulatory Commission, Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protest should be filed on or before November 26, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-35765 Filed 11-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER80-78]

Pacific Power & Light Co.; Notice of Extension of Rate Schedule

November 9, 1979.

The filing Company submits the following:

Take Notice that Pacific Power & Light Company (Pacific) on November 7, 1979, tendered for filing, in accordance with section 35.13 of the Commission's Regulations, an extension of Pacific's Rate Schedule, FERC No. 169, and Tucson's corresponding Rate Schedule FERC No. 28, for power sales to Tucson Electric Power Company (Tucson).

Pacific requests waiver of the Commission's notice requirements to permit this rate schedule to become effective October 1, 1979, which it claims is the date service commenced.

Copies of the filing were supplied to Tucson.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 3, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-35766 Filed 11-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP80-16]

Panhandle Eastern Pipe line Co.; Notice of Change in Tariff

November 9, 1979.

Take notice that on November 1, 1979 Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing the following Revised Tariff Sheets to its FERC Gas Tariff, Original Volume No. 1:

Original Sheet No. 3-C.1.
Original Sheet No. 3-C.2.
Original Sheet No. 3-C.3.
Fifth Revised Sheet No. 43-1.
Seventh Rivised Sheet No. 43-2
Original Sheet No. 43-2.1.
Eighth Revised Sheet No. 43-3.
Ninth Revised Sheet No. 43-4.
Second Rivised Sheet No. 43-4.1.
Original Sheet No. 43-7.
Orginal Sheet No. 43-8.

An effective date of December 1, 1979 is proposed. Panhandle states that such revised tariff sheets are filed pursuant to Section 282.601 of the Commission's Regulations.

On September 28, 1979 the Commission issued Order No. 49 in subject docket establishing the Final Rule implementing the incremental pricing provisions of the Natural Gas Policy Act of 1978. Section 282.601 of the Commission's Regulations as established under Order No. 49 require interstate pipelines to revise its current PGA tariff provisions and establish Incremental Pricing Surcharge tariff provisions in accordance with the Incremental Pricing Regulations.

Panhandle states that copies of its filing have been served on all customers subject to the tariff sheets and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 26, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-35767 Filed 11-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ES80-12]

South Carolina Electric & Gas Co.; Notice of Application

November 9, 1979.

On October 30, 1979, South Carolina Electric & Gas Company (Applicant) filed an application with the Federal Energy Regulatory Commission seeking authority pursuant to Section 204(a) of the Federal Power Act to issue unsecured promissory notes not to exceed in the aggregate $120,000,000 face value at any one time outstanding. The notes, including bank notes and commercial paper, are to have maturities not exceeding twelve months from the dates of issuance. The Applicant is incorporated under the laws of the State of South Carolina with

its principal business office at Columbia, South Carolina, and is engaged primarily in the electric and gas business.

The proceeds from the sale of the notes will be used (1) to provide interim financing for Applicant's construction program contemplated and now in progress, (2) to provide temporary financing of current transactions, to maintain cash working funds at normal levels, to carry accounts receivable, to provide for periodic large cash needs, such as tax payments, to supply temporary funds for unexpected cash requirements, and (3) to provide for other types of current operational business requirements. Applicant's construction program now in progress and contemplated through 1981 has an estimated cost of $632,000,000.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before November 30, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-35768 Filed 11-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP80-25]

Southern Natural Gas Co.; Notice of Proposed Changes in FERC Gas Tariff

November 9, 1979.

Take notice that Southern Natural Gas Company (Southern), on November 1, 1979, tendered for filing proposed changes in its FPC Gas Tariff, Sixth Revised Volume No. 1, to become effective December 1, 1979. Southern states that the proposed tariff sheets have been filed to revise its Purchase Gas Adjustment Clause and to establish an Incremental Pricing Surcharge provision, all in compliance with the Commission's Order No. 49.

Copies of the filing are being served upon the company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 27, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-35769 Filed 11-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP80-21]

Tennessee Gas Pipeline Co., a Division of Tenneco, Inc.; Notice of Tariff Filing Pursuant to Order No. 49

November 9, 1979.

Take notice that on November 1, 1979, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), tendered for filing tariff sheets to its FERC Gas Tariff, to be effective December 1, 1979, consisting of the following:

Ninth Revised Volume No. 1

Original Sheet Nos. 213U, 213V and 213W.
First Revised Sheet Nos. 21, 213K5 and 213T.
Second Revised Sheet Nos. 27, 32 and 213E.
Third Revised Sheet Nos. 213A, 213B, 213F, 213G and 213L.
Fourth Revised Sheet No. 213D.
Fifth Revised Sheet No. 213.
Sixth Revised Sheet No. 213C.
Seventh Revised Sheet Nos. 14, 20, 28, 30 and 33.

Sixth Revised Volume No. 2

First Revised Sheet Nos. 430 and 431.
Second Revised Sheet No. 428.
Fifth Revised Sheet No. 429.
Seventh Revised Sheet No. 427.

Tennessee states that these tariff sheets reflect the modifications and additions to its tariff resulting from the Commission's Regulations adopted in Order No. 49 to implement incremental pricing. Specifically, Tennessee states that it is adding a new Article XXIX to the General Terms and Conditions of its tariff to establish the mechanism for calculating and billing the Incremental Pricing Surcharges. Tennessee further states that it has revised the Purchased Gas Cost Cost Adjustment provision in Article XXIII to reflect the changes in the calculation of its PGA rate adjustment flowing from Order No. 49. Finally, Tennessee states that it has made a number of minor changes to the notice provisions of its other rate adjustment provisions and modified its basic sales rate schedules to incorporate the appropriate references to the new incremental pricing provisions of its tariff.

Tennessee states that copies of the filing have been mailed to all of its jurisdictional customers, all direct sales customers subject to incremental pricing and affected state regulatory commissions.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 26, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-35770 Filed 11-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP80-27]

Texas Gas Transmission Corp.; Notice of Filing of Revised Tariff Sheet

November 9, 1979.

Take notice that on November 1, 1979, Texas Gas Transmission Corporation (Texas Gas) tendered for filing the following revised tariff sheets to its FERC Gas Tariff, Third Revised Volume No. 1:

Second Revised Sheet Nos. 101 and 104.
Seventh Revised Sheet No. 102.
First Revised Sheet Nos. 103 and 106-A.
Third Revised Sheet No. 105.
Fourth Revised Sheet No. 106.
Original Sheet No. 106-B.

The revised tariff sheets are being filed to (1) establish an incremental pricing surcharge provision in Texas Gas' FPC Gas Tariff; and (2) revise the presently effective PGA provisions of the tariff to reflect incremental pricing as directed in Order No. 49 issued September 28, 1979, in Docket No. RM79-14. The proposed effective date of the revised tariff sheets is December 1, 1979.

Copies of the revised tariff sheets are being mailed to Texas Gas' jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 or 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 27, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc 79-35771 Filed 11-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP80-9]

Texas Gas Pipe Line Corp.; Notice of Tariff Filing

November 9, 1979.

Take notice that on November 1, 1979, Texas Gas Pipe Line Corporation (Texas Gas) tendered for filing as its FERC Gas Tariff to be effective on November 1, 1979 the following volumes:

Second Revised Volume No. 1.
First Revised Volume No. 2.

Texas Gas States that the replacing volumes are tendered for filing for the following reasons:

(1) To effectuate certain conforming changes pursuant to an Order issued by the Commission on February 6, 1978 in Docket No. CP78-57 permitting and approving abandonment of certain facilities.

(2) To satisfy the requirements of Section 282.601 of the Commission's regulations issued on October 3, 1979 in Docket No. RM79-14 (Order No. 49) requiring interstate pipelines to file revised PGA provisions and incremental pricing surcharge provisions to be effective December 1, 1979 unless disapproved by the Commission.

Texas Gas' Second Revised Volume No. 1 contains a First Revised Sheet No. 4a which Texas Gas states has been prepared in accordance witht the Purchased Gas Adjustment Provision contained in Section 12 of the General Terms and Conditions of the Tariff. More specifically, the tariff sheet reflects a net decrease under the rate currently being collected of 7.25 cents per Mcf (at 14.65 psia) to be effective December 1, 1979.

Any person desiring to be heard and to any protest with reference to said filing should on or before November 26, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing must file petitions to intervene in accordance with the Commission's Rules. Texas Gas' tariff filing is on file with the Commission and available for public inspection.

Kenneth R. Plumb,

Secretary.

[FR Doc. 79-35772 Filed 11-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP80-13]

Transcontinental Gas Pipe Line Corp.; Notice of Tariff Filing

November 9, 1979.

Take notice that on November 1, 1979, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing the following tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1:

Second Revised Sheet No. 247.
First Revised Sheet No. 248.
Third Revised Sheet No. 249.
First Revised Sheet No. 250.
Original Sheet No. 250-A.

Transco states that these tariff sheets set forth new procedures for collection of incremental pricing surcharges, as prescribed by the Commission's Order No. 49, issued September 28, 1979, together with the revisions in Transco's purchased gas adjustment (PGA) clause required to implement incremental pricing. These tariff sheets are proposed to be made effective December 1, 1979.

The Company states that copies of the filing have been mailed to each of its customers and interested States Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 28, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspeciton.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-35773 Filed 11-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP80-30]

United Gas Pipe Line Co.; Notice of Filing of Original and Revised Tariff Sheets

November 9, 1979.

Take notice that United Gas Pipe Line Company (United), on November 1, 1979, tendered for filing, as part of its FERC Gas Tariff, First Revised Volume 1, the following tariff sheets:

Fourth Revised Sheet No. 74-B.
Fifith Revised Sheet No. 74-C.
Fourth Revised Sheet No. 74-D.
Fifth Revised Sheet No. 74-E.
Fifth Revised Sheet No. 74-F.
Original Sheet No. 74-F1.
Original Sheet No. 74-F2.
Original Sheet No. 74-P.
Original Sheet No. 74-Q.
Original Sheet No. 74-R.
Original Sheet No. 74-S.

United states it has revised Section 19 and added a new Section 23 to its FERC Gas Tariff, First Revised Volume No. 1. Section 19 is being revised to (1) modify Section 19, as required by the Commission's order issued July 18, 1979, in United Gas Pipe Line Company Docket No. RP72-133 (PGA77-2), to exclude from United's purchased gas adjustments the costs of emergency gas purchased on or after July 18, 1979, under Section 157.48 of the Commission's regulation either (a) by Seller as agent or broker for others or (b) by Seller for system supply when such gas is not acquired to serve or protect service to United's Priority 1 requirements or to allow United to maintain its storage injection schedules; and (2) to modify Section 19, as required by Commission Order No. 49, issued September 28, 1979, and to provide a new Section 23 to implement the incremental pricing procedures set out in Order No. 49. The proposed tariff sheets will change the method of computing the rates to become effective January 1, 1980, but will not affect the rates in effect prior to that date. United respectfully requests waiver of the Commission's regulations, to the extent

that such waiver may be required to permit implementation of incremental pricing as set out on the proposed tariff sheets and to make such tariff sheets effective on December 1, 1979, as required by Order No. 49.

Copies of the proposed tariff sheets will be mailed to United's customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 27, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-35774 Filed 11-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. SA80-18]

Western Gas Interstate Co.; Notice of Application for Adjustment and Request for Interim Relief

November 9, 1979.

On October 31, 1979, Western Gas Interstate Company ("Western") filed with the Federal Energy Regulatory Commission an application for an adjustment under Section 502(c) of the Natural Gas Policy Act of 1978 ("NGPA"). Western seeks relief from Part 282—Incremental Pricing set forth in Order 49 (RM79-14) and the filing deadline of November 1, 1979 contained in Section 282.601 and an exemption from the December 1, 1979 deadline in Section 282.602 of the Commission's Regulations under Title II of the NGPA. Western also requests interim relief pending determination of the application.

Section 282.601 and 282.602 require: (i) the filing of an incremental pricing surcharge provision and a revised Purchased Gas Adjustment by November 1, 1979; (ii) the filing of tariff sheets on or before December 1, 1979 reflecting the projected Incremental Pricing Surcharges by month for each of the direct sale, non-exempt industrial boiler fuel facilities; and (iii) the monthly aggregate amount applicable to each sale-for-resale customer on the pipeline system. Western sells gas to only one customer, its parent, Southern Union Company; through its two gas distribution divisions, Southern Union Gas Company ("SUG") and Gas Company of New Mexico ("GCNM"). Such sales are made in accordance with tariffs on file with this Commission. The sale of gas to the ultimate consumers are regulated by various state and local authorities. Western has been advised by sworn affidavit that SUG serves no "non-exempt" industrial boiler fuel customers with natural gas provided by Western. Further, the sales to GCNM are derived from sales from El Paso Natural Gas Company ("EPNG") and are stated to be *de minimis* in amount. To the extent necessary to maintain GCNM's pro rata share of incremental costs from EPNG, Western states that GCNM would treat its purchases from Western as though acquired directly from EPNG.

For these reasons, Western contends that the requirements of Order 49, as established in Part 282—Incremental Pricing and Sections 282.601 and 282.602 in particular are unnecessary and would cause special hardship and work an inequity on Western, and, consequently, Western requests waiver of the requirements set forth in Part 282 as established by Order 49 and in Section 282.602 and an extension of the deadline of November 1, 1979, for filing tariff sheets, revising the PGA provisions set forth in Section 282.601 until 30 days before such time Western brings any non-exempt customer on line, for sale to SUG or makes sales other than from EPNG sources of gas to GCNM all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The procedures applicable to the conduct of this adjustment proceeding are found in § 1.41 of the Commission's Rules of Practice and Procedure, Order No. 24 issued March 22, 1979.

Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of § 1.41. All petitions to intervene must be filed within 15 days after publication of this notice in the **Federal Register.**

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-35775 Filed 11-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. SA80-13]

Zenith Natural Gas Co.; Notice of Application for Adjustment

November 9, 1979.

On October 26, 1979, Zenith Natural Gas Company (Zenith) filed with the Federal Energy Regulatory Commission an application for an adjustment under Part 282 of the Commission's Rules under the NGPA wherein Zenith requested that the Commission clarify the requirements of Part 282 or make an adjustment to exempt Zenith from the requirements of Part 282 as long as none of its gas purchases is at a cost in excess of the threshold level. Zenith states that none of the gas which it purchases is priced in excess of the incremental pricing threshold level and that the gas is low cost gas which will not reach the threshold level.

The procedures applicable to the conduct of this adjustment proceeding are found in § 1.41 of the Commission's Rules of Practice and Procedure, Order No. 24 issued March 22, 1979.

Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of § 1.41. All petitions to intervene must be filed within 15 days after publication of this notice in the **Federal Register.**

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-35776 Filed 11-19-79; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[PP 9G2256/T221; FRL 1362-2]

Establishment of a Temporary Tolerance; 2,6-dichloro-4-nitroaniline

Pennwalt Corp., 1713 South Carolina Ave., Monrovia, CA 91016, submitted a pesticide petition (PP 9G2256) to the Environmental Protection Agency (EPA). This petition requested that a temporary tolerance be established for residues of the fungicide 2,6-dichloro-4-nitroaniline in or on the raw agricultural commodity kiwi fruit at 20.0 parts per million (ppm). This temporary tolerance will permit the marketing of the above raw agricultural commodity when treated in accordance with an experimental use permit, 4581-EUP-33, that has been issued under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).

An evaluation of the scientific data reported and other relevant material showed that the requested tolerance

was adequate to cover residues resulting from the proposed experimental use, and it was determined that the temporary tolerance would protect the public health. The temporary tolerance has been established for the pesticide, therefore, with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.

2. Pennwalt Corp. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This temporary tolerance expires July 1, 1980. Residues not in excess of 20.0 ppm remaining in or on kiwi fruit after this expiration date will not be considered actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permit and temporary tolerance. This temporary tolerance may be revoked if the experimental use permit is revoked or if scientific data or experience with this pesticide indicates such revocation is necessary to protect the public health. Inquiries concerning this notice may be directed to Henry Jacoby, Product Manager 21, Registration Division (TS–767), Office of Pesticide Programs, 401 M St., SW, Washington, DC 20460 (202/755–2562).

(Sec. 408(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 34a(j)))

Dated: November 9, 1979.

Douglas D. Campt,

Director, Registration Division.

[FR Doc. 79–35689 Filed 11–19–79; 8:45 am]

BILLING CODE 6560–01–M

[PF–84B; FRL 1361–8]

Filing of Feed Additive Petition Amendments

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA or the Agency).

ACTION: Amendments to notice of filing.

SUPPLEMENTARY INFORMATION: On December 6, 1977, EPA announced (42 FR 61626) that Mobay Chemical Corp., P.O. Box 4913, Kansas City, MO 64120, had submitted a feed additive petition (FAP 6H5150) proposing that 21 CFR 561.232 be amended by establishing a regulation permitting the use of the nematocide ethyl-3-methyl-4-(methylthio) phenyl (1-methylethyl) phosphoramidate and its cholinesterase-inhabiting metabolites on the commodities of grapefruit, lemons, limes, oranges, and tangerines, with tolerance limitations of 3.0 parts per million (ppm) in citrus molasses and 2.5 ppm in dried citrus peel. Mobay Chemical Corp. has submitted amendments to this petition by changing the tolerance limitation from 3.0 ppm to 2.5 ppm for citrus molasses, adding the commodities citrus oil at 25.0 ppm and dried citrus pulp at 2.5 ppm, and deleting the commodity dried citrus peel at 2.5 ppm.

COMMENTS/INQUIRIES: Comments may be submitted, and inquiries directed, to Product Manager (PM) 21, Mr. Henry Jacoby, Room E–305, Registration Division (TS–767), Office of Pesticide Programs, EPA, 401 M St., SW, Washington, DC 20460, telephone number 202/755–2562. Comments submitted should bear a notation indicating the petition number "FAP 6H5150". Comments may be made at any time while a petition is pending before the Agency. Written comments filed in connection with this notice will be available for public inspection in the Product Manager's office from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 409(b)(5), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348))

Dated: November 9, 1979.

Douglas D. Campt,

Director, Registration Division.

[FR Doc. 79–35688 Filed 11–19–79; 8:45 am]

BILLING CODE 6560–01–M

[PF–84A; FRL 1361–7]

Notice of Filing of Pesticide Petition Amendment

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA or the Agency).

ACTION: Amendment to notice of filing.

SUPPLEMENTARY INFORMATION: On December 6, 1977, EPA announced (42 FR 61626) that Mobay Chemical Corp., PO Box 4913, Kansas City, MO 64120, has submitted a pesticide petition (PP 6F1865) proposing that 40 CFR 180.349 be amended by establishing tolerances for the combined residues of the nematocide ethyl-3-methyl-4-(methylthio) phenyl (1-methylethyl) phosphoramidate and its cholinesterase-inhibiting metabolites in or on the raw agricultural commodities grapefruit, lemons, limes, oranges, and tangerines at 0.75 part per million (ppm). Mobay Chemical Corp. has submitted an amendment to this petition changing the tolerance limitation from 0.75 ppm to 0.6 ppm on the above raw agricultural commodities. The proposed analytical method for determining residues is gas chromatography using a thermionic flame ionization detector.

COMMENTS/INQUIRIES: Comments may be submitted, and inquiries directed, to Product Manager (PM–21), Mr. Henry Jacoby, Room E–305, Registration Division (TS–767), Office of Pesticide Programs, EPA, 401 M St., SW, Washington, DC 20460, telephone number 202/755–2562. Comments submitted should bear a notation indicating the petition number "PP 6F1865". Comments may be made at any time while a petition is pending before the Agency. Written comments filed in connection with this notice will be available for public inspection in the Product Manager's office from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

(Section 408(d)(1) Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a))

Dated: November 9, 1979.

Douglas D. Campt,

Director, Registration Division.

[FR Doc. 79–35687 Filed 11–19–79; 8:45 am]

BILLING CODE 6560–01–M

[Docket No. ECAO–CD–79–1; FRL 1362–3]

Review of Preliminary Draft Criteria for Particulate Matter and Sulfur Oxides; Correction

Agency mention of Federal Register notice 44 FR 58730, October 2, 1979, in Federal Register notice 44 FR 61455, October 25, 1979 is changed to read 44 FR 56730, October 2, 1979. This serves to correct the erroneous page cited.

Dated: November 14, 1979.

Stephen J. Gage,

Assistant Administrator for Research and Development.

[FR Doc. 79–35690 Filed 11–19–79; 8:45 am]

BILLING CODE 6560–01–M

[FRL 1362–7; OPTS–59000]

Office of Pesticides and Toxic Substances; Premanufacture Exemption Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Receipt of application for exemption from premanufacture requirements for test marketing purposes; request for comments.

SUMMARY: Section 5(a)(1)(A) of the Toxic Substances Control Act (TSCA) requires any person intending to manufacture or import a new chemical substance for a commercial purpose in

the United States to submit a premanufacture notice (PMN) to EPA at least 90 days before he commences such manufacture or import. Under § 5(h) the Agency may, upon application, exempt any person from any requirement of § 5 to permit such person to manufacture or process a chemical for test marketing purposes. Section 5(h)(6) requires EPA to publish in the **Federal Register** a notice of receipt of any such application. This notice announces receipt of an application for an exemption from the premanufacture reporting requirements for test marketing purposes and requests comments on the appropriateness of granting the exemption.

DATES: The Agency must either approve or deny this application by December 6, 1979. Persons should submit written comments on the application no later than December 5, 1979.

ADDRESS: Written comments should bear the identifying notation OPTS–59000, and should be submitted in triplicate, if possible, to the Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, EPA, 401 M St., SW., Washington, D.C. 20460. All comments submitted and other nonconfidential information in the public record are available for public inspection from 9:00 a.m. to 4:00 p.m., Monday through Friday (excluding holidays), in Room 447, East Tower, at the address above.

FOR FURTHER INFORMATION CONTACT: Ms. Paige Beville, Application Manager, Premanufacture Review Division (TS–794), Office of Pesticides and Toxic Substances, EPA, Washington, D.C. 20460 (202/426–8815).

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA, any person who intends to manufacture or import a new chemical substance for commercial purposes in the United States must submit a notice to EPA before manufacture or import begins. A "new" chemical substance is any chemical substance that is not on the inventory of existing chemical substances compiled by EPA under section 8(b) of TSCA.

Section 5(a)(1) requires each PMN to be submitted in accordance with section 5(d) and any applicable requirement of section 5(b). Section 5(d)(1) defines the contents of a PMN. Section 5(b)(1) contains additional reporting requirements for chemical substances that are subject to testing rules under section 4. Section 5(b)(2) requires additional information in PMN's for substances which EPA, by rules under section 5(b)(4), has determined may present unreasonable risks of injury to health or the environment.

Section 5(h), "Exemptions", contains several provisions for exemptions from some or all of the requirements of section 5. In particular, section 5(h)(1) authorizes EPA, upon application, to exempt persons from any requirement of section 5(a) or section 5(b) to permit the persons to manufacture or process a chemical substance for test marketing purposes. To grant such an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk of injury to health or the environment. EPA must either approve or deny the application within 45 days of its receipt, and the Agency must publish a notice of its disposition in the **Federal Register.** If EPA grants a test marketing exemption, it may impose restrictions on the test marketing activities.

Under section 5(h)(6), EPA must publish in the **Federal Register** a notice of receipt of an application under section 5(h)(1) immediately after the Agency receives the application. The notice identifies and briefly describes the application (subject to section 14 confidentiality restrictions) and gives interested persons an opportunity to comment on it and whether EPA should grant the exemption. Because the Agency must act on the application within 45 days, interested persons should provide comments within 15 days after the notice appears in the **Federal Register.**

EPA has proposed Premanufacture Notification Requirements and Review Procedures (44 FR 2242, January 10, 1979 and 44 FR 59764, October 16, 1979) containing proposed premanufacture rules and notice forms. Proposed 40 CFR 720.15 (44 FR 2268) would implement section 5(h)(1) concerning exemptions for test marketing and includes proposed 40 CFR 720.15(c) concerning the section 5(h)(6) **Federal Register** notice. However, these requirements are not yet in effect. In the meantime, EPA has published a statement of Interim Policy (44 FR 28564, May 15, 1979) which applies to PMN's submitted prior to promulgation of the rules and notice forms.

Dated: November 16, 1979.

Steven D. Jellinek,

Assistant Administrator for Toxic Substances.

Test Marketing Exemption Application
5AHQ–1079–0020A
5AHQ–1079–0021A

Close of Application Review Period: December 6, 1979.

Importer's Identity: Hesser & Associates, Inc., 10100 Santa Fe Drive, Suite 208, Overland Park, Kansas 66212.

Chemical Substances: Hesser and Associates intends to import sucrose tallowate as well as mixtures containing that substance along with any or all of the following: (1) Mono- and diglycerides of tallow fatty acids. (2) Calcium salts of tallow fatty acids. (3) Potassium salts of tallow fatty acids.

Sucrose tallowate is composed primarily of sucrose monopalmitate, sucrose mono-oleate, and sucrose monostearate. An inventory search was conducted for these three components. Sucrose monopalmitate appeared on the Inventory, No. 26446–38–8. Sucrose mono-oleate and sucrose monostearate did not.

Uses:

The importer has indicated that the products that he intends to import for test marketing purposes under this exemption will be used primarily as surfactants in laundry detergents and dishwashing detergents. Possibly one or more of these products may be used in barrier creams for hands.

Data:

1. The importer has indicated that the maximum amount to be test marketed will be approximately 400–600 lbs.
2. The maximum number of products containing sucrose tallowate for test marketing purpose is 10–15.
3. The maximum number of samples containing sucrose tallowate to be test marketed is 70–80.
4. The maximum number of persons who may be exposed to the substance as a result of test marketing activities is 140–160.
5. Test marketing will occur over a time period of 18–24 months.

Physical and chemical characteristics supplied by the submitter for each of the five products he intends to import under this exemption are as follows:

TAL 120 T—Surfactant

Composition

TAL 120 T is essentially a complex mixture of sucrose esters, mono/diglycerides, and potassium soaps formed by the transesterification reaction of tallow and sucrose.

General Characteristics

Appearance, a free flowing, waxy, tan colored flake.
Softening point, 55° C. (Ring and Ball).
Pour point, 74° C.
Specific gravity (20°), 1.099.
Bulk density, 0.40 approx.
pH (1% aq. soln.), 10.5.
H.L.B., 14 approx.
Solubility, dispersable in warm water.
Biodegradability, completely biodegradable.

TAL 121 T—Surfactant

Composition

TAL 121 T is essentially a complex mixture of sucrose esters, mono/diglycerides, and calcium soaps of fatty acids derived from tallow.

General appearance

Appearance, a soft, waxy, light brown solid. The product will be available in flake or powder form.
Softening point, 82° C. (Ring and Ball).
Pour point, 90° C. approx.

Specific gravity (20° C.), 0.984.
Biodegradability, completely biodegradable.

TAL 125 T—Surfactant

Composition

TAL 125 T is essentially a mixture of sucrose esters and potassium soaps of fatty acids derived from tallow.

General characteristics

Appearance, a free flowing, waxy, tan colored powder.
Softening point, 96° C. (Ring and Ball).
Specific gravity (20° C.), 1.075.
Bulk density, 0.64 approx.
pH (1% aq. soln.), 9.5.
H.L.B., 15 approx.
Solubility, dispersable in warm water. Soluble in isopropanol.
Biodegradability, completely biodegradable.

TAL 150 T—Sucroglyceride

Composition

TAL 150 T is essentially a mixture of sucrose esters and mono/diglycerides of fatty acids derived from tallow.

General characteristics

Appearance, a soft, waxy, light brown solid.
Softening point, 40° C. (Ring and Ball).
Pour point, 54° C.
Specific gravity (20° C.), 0.99.
H.L.B., 7 approx.
Solubility, insoluble in water. Soluble in isopropanol.
Biodegradability, completely biodegradable.

TAL 160 T—Sucrose ester

Composition

TAL 160 T is composed essentially of sucrose esters of fatty acids derived from tallow.

General characteristics

Appearance, a tan colored, free flowing powder.
Softening point, 95° C. (Ring and Ball).
Specific gravity (20° C.), 1.07.
Bulk density, 0.65 approx.
H.L.B., 16 approx.
Solubility, dispersable in warm water. Soluble in isopropanol.
Biodegradability, completely biodegradable.

[FR Doc. 79-35884 Filed 11-19-79; 8:45 am]
BILLING CODE 6560-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Statement of Policy Concerning Interest Rate Futures Contracts, Forward Contracts and Standby Contracts

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Policy Statement.

SUMMARY: This policy statement contains policies and procedures that the Board of Directors believes should be instituted by insured State nonmember banks that engage in interest rate futures contracts,[1] forward contracts [2] or standby contracts,[3] on U.S. government and agency securities to ensure that such activities are conducted in accordance with safe and sound banking practices. These policies and procedures will apply to contracts outstanding as of January 1, 1980 as well as to those entered into thereafter. Similar policy statements are being adopted by the Comptroller of the Currency and the Board of Governors of the Federal Reserve System.

EFFECTIVE DATE: The policy statement is effective January 1, 1980. Comments, however, will be received until December 15, 1979.

ADDRESS: Comments should be in writting, should refer to PR-122-79, and be addressed to Mr. Hoyle L. Robinson, Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429.

FOR FURTHER INFORMATION CONTACT: Ms. Sally Y. King, Chief, Securities Analysis Section, or Mr. Paul L. Sachtleben, Projects and Planning Specialist, Projects and Planning Branch, Federal deposit Insurance Corporation, 550-17th Street, NW., Washington, D.C. 20429 (202-389-4606 or 202-389-4141).

SUPPLEMENTARY INFORMATION: This policy statement is issued pursuant to the Financial Institutions Supervisory Act, 12 U.S.C. 1813, and the supervisory authority of the Federal Deposit Insurance Corporation with respect to nonmember insured banks.

[1] *Futures Contracts:* These are standardized contracts traded on organized exchanges to purchase or sell a specified security on a future date at a specified price. Futures contracts on GNMA mortgage backed securities and Treasury bills were the first interest rate futures contracts. Several other interest rate futures contracts have been developed, and it is anticipated that new and similar interest rate futures contracts will continue to be proposed and adopted for trading on various exchanges.

[2] *Forward Contracts:* These are over-the-counter contracts for forward placement or delayed delivery of securities in which one party agrees to purchase and another to sell a specified security at a specified price for future delivery. Contracts specifying settlement in excess of 30 days following trade date shall be deemed to be forward contracts. Forward contracts are not traded on organized exchange, generally have no required margin payments, and can only be terminated by agreement of both parties to the transaction.

[3] *Standby Contracts:* These are optional delivery forward contracts on U.S. government and agency securities arranged between securities dealers and customers and do not currently involve trading on organized exchanges. The buyer of a standby contract (put option) acquires, upon paying a fee, the right to sell securities to the other party at a stated price at a future time. The seller of a standby (the issuer) receives the fee, and must stand ready to buy the securities at the other party's option.

Statement of Policy Concerning Interest Rate Futures Contracts, Forward Contracts and Standby Contracts

The following is a Board of Directors policy statement relating to insured State nonmember bank participation in the futures and forward contract markets to purchase and sell U.S. government and agency securities. Information contained below is applicable specifically to activities of commercial and mutual savings banks. An additional statement of policy applicable to trust department activities of State nonmember banks may be issued at a later time.

The staff of the Treasury Department and the Board of Governors of the Federal Reserve System recently completed a study of the markets for Treasury futures. In part, the study notes that there is evidence that financial futures can be used by banks effectively to hedge portions of their portfolios against interest rate risk. However, the study also cautions that improper use of interest rate futures contracts will increase rather than decrease interest rate risk. In addition, various participants have advised that certain salespersons are attempting to suggest inappropriate futures transactions for banks, such as taking futures positions to speculate on future interest rate movements. Furthermore, some banks and other financial institutions have recently issued standby contracts (giving the contra party the option to deliver securities to the bank at a predetermined price) that were extremely large given their ability to absorb interest rate risk. In so doing, these institutions have been exposed to potentially large losses that could (and sometimes did) significantly affect their financial condition.

Banks that engage in futures, forward and standby contract activities should only do so in accordance with safe and sound banking practices. Levels of activity should be reasonably related to the bank's business needs and capacity to fulfill its obligations under these contracts. In managing their investment portfolios, banks should evaluate the interest rate risk exposure resulting from their overall activities to ensure that the positions they take in futures, forward and standby contract markets will reduce their risk exposure. Pairing a transaction in the spot market with an offsetting position in either futures, forward or standby contracts can be an effective way to reduce interest rate risk. However, policy objectives should be formulated in light of the bank's entire asset and liability mix. The following are minimal guidelines to be

followed by banks eligible under State law to participate in these markets.

1. Prior to engaging in these transactions, a bank should consult its State banking authority or obtain an opinion of bank counsel concerning the legality of these activities under State law.

2. The board of directors should consider any plan to engage in these activities and should endorse specific written policies in authorizing these activities. Policy objectives must be specific enough to outline permissible contract strategies and their relationship to other banking activities. Record keeping systems must be sufficiently detailed to permit internal auditors and examiners to determine whether operating personnel have acted in accordance wtih authorized objectives. Bank personnel are expected to be able to describe and document in detail how the positions they have taken in futures, forward and standby contracts contribute to the attainment of the bank's stated objectives.

3. The board of directors should establish limitations applicable to futures, forward and standby contract positions and review periodically (at least monthly) contract positions to make sure they conform with the limits.

4. The bank should maintain general ledger memorandum accounts or commitment registers to adequately identify and control all commitments to make or take delivery of securities. Such registers and supporting journals should at a minimum include: (a) The type and amount of each contract; (b) The maturity date of each contract; (c) The current market price and cost of each contract; and (d) The amount of money held in margin accounts.

5. All open positions should be reviewed and market values determined at least monthly, (or more often, depending on volume and magnitude of positions), regardless of whether the bank is required to deposit margin in connection with a given contract.[4] All futures contracts should be marked to market at least monthly. Any loss related to open forward and standby [5] contracts should be recognized on the basis of the lower of cost or market value of the underlying security as determined at month-end.[6] Open forward contracts maintained in trading accounts may be carried at market at the option of the bank.

6. Completed futures, forward or standby contracts giving rise to aquisition of securities will require such security transactions to be recorded on the basis of the lower of contract price or market on settlement date. If the market value of the securities is lower than the contract price, the difference should be recorded as an immediate charge against income.

7. Fee income received by a bank in connection with a standby contract should be deferred at initiation of the contract and accounted for as follows:

(a) Upon expiration of an unexercised contract the deferred amount should be reported as income;

(b) Upon a negotiated settlement of the contract prior to maturity, the deferred amount should be accounted for as an adjustment to the expense of such settlement, and the net amount should be transferred to the income account; or

(c) Upon exercise of the contract, the deferred amount should be accounted for as an adjustment to the basis of the acquired securities. Such adjusted cost basis should be compared to market value of securities acquired. See item 6.

8. Bank financial reports should disclose in an explanatory note any futures, forward and standby contract activity that materially affects the bank's financial condition.

9. To ensure that banks minimize credit risk associated with forward and standby contract activity, banks should implement a system for monitoring credit risk exposure associated with the customers and dealers with whom operating personnel are authorized to transact business.

10. Banks should establish other internal controls including periodic reports to management and internal audit programs to assure adherence to bank policy, and to prevent unauthorized trading and other abuses.

The issuance of long-term standby contracts, i.e., those for 150 days or more, which give the other party to the contract the option to deliver securities to the bank will ordinarily be viewed as an inappropriate practice. In almost all instances where standby contracts specified settlement in excess of 150 days, regulatory authorities have found that such contracts were related not to the investment or business needs of the institution, but primarily to the earning of fee income or to speculating on future interest rate movements. Accordingly, the Board of Directors concludes that insured State nonmember banks should not issue standby contracts specifying delivery in excess of 150 days, unless special circumstances warrant.

The Board of Directors intends to monitor closely insured State nonmember bank transactions in futures, forward and standby contracts to ensure that any such activity is conducted in accordance with safe and sound banking practices. In light of that continuing review, it may be found desirable to establish position limits applicable to insured State nonmember banks. This policy statement is issued pursuant to the Financial Institutions Supervisory Act, 12 U.S.C. 1818, and the supervisory authority of the Federal Deposit Insurance Corporation with respect to nonmember insured banks.

By order of the Board of Directors, November 13, 1979.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 79-35823 Filed 11-19-79; 8:45 am]

BILLING CODE 6714-01-M

[4] Underlying security commitments relating to open futures and forward contracts should not be reported on the balance sheet: Margin deposits and any unrealized losses (and in certain instances as noted below, unrealized gains) are usually the only entries to be recorded on the books.

[5] Losses on standby contracts need be computed only in the case of the party committed to purchase under the contract, and only where the market value of the security is below the contract price adjusted for deferred fee income.

[6] Should margin on forward contracts be required, and assuming the margin accounts would work in the same manner as exchange margins, bank forward contracts should be carried at market to reflect the margin transactions.

FEDERAL MARITIME COMMISSION

[Docket No. 79-95]

Cancellation of Tariffs for Failure To Comply With 46 CFR Part 536 (General Order 13); Order To Show Cause

The Commission's Order in Docket No. 72-19 (as it appeared in 42 FR 59265, November 16, 1977), revised the regulations affecting the publishing and filing of tariffs by common carriers and conferences of such carriers, operating in the foreign commerce of the United States. These new regulations became effective on January 1, 1978. It was ordered that all tariff materials employed by such common carrier fully conform to the new regulations by January 1, 1979, unless special permission authority extending this deadline was granted to those carriers which demonstrated good cause on an extension. It was further ordered that tariffs on file January 1, 1979, which had not met the aforementioned requirements would be cancelled.

The carriers named in Attachment A, attached hereto, have published rates in tariffs on file with the Federal Maritime Commission for the carriage of goods in the foreign commerce of the United States. These carriers have failed, however, to bring their tariffs into conformity with the revised regulations.

The Commission is, therefore, of the opinion that the tariffs presently on file on behalf of the carriers and conferences of such carriers, listed in Attachment A, should be cancelled unless the carriers can show cause why their tariffs should not be cancelled.

The Commission has reason to believe that several of the tariffs published by the carriers listed in Attachment A have been previously cancelled by written or telegraphic notice. Commission records, however, do not reflect such cancellation authority. Should this be the case, it is requested that the involved carrier(s) contact the Commission, in writing, citing the authority and date of such authority, which cancelled the involved publication(s).

Any tariff which is cancelled as a result of this Order shall be cancelled without prejudice to the filing of a new tariff publication.

Now, therefore, it is ordered, That pursuant to sections 22 and 18 of the Shipping Act, 1916, the carriers named in Attachment A[1] be named respondents in this proceeding, and that they be ordered to show cause why their tariffs for the common carriage of goods in the foreign commerce of the United States should not be cancelled for failure to comply with the provisions of 46 CFR Part 536.

It is further ordered, That this proceeding shall be limited to the submission of affidavits of fact and memoranda of law and replies thereto. Oral argument may also be scheduled if deemed necessary by the Commission. Should any party believe that an evidentiary hearing is required, that party must accompany any request for such hearing with a statement setting forth in detail the facts to be proven, their relevance to the issues in this proceeding and why such proof cannot be submitted through affidavit. Affidavits of fact and memoranda of law shall be filed by respondents and served upon all nonrespondent parties of record no later than close of business on January 7, 1980. Reply affidavits and memoranda shall be filed by the Commission's Bureau of Hearing Counsel no later than close of business on February 8, 1980. Intervenors shall file as their interests shall appear. Requests for hearing or for oral argument shall be filed on or before February 15, 1980.

It is further ordered, That notice of this Order be published in the Federal Register, and a copy be served upon all parties at the addresses indicated on the title page of their respective tariff publications.

It is further ordered, That any person having an interest and desiring to participate in this proceeding shall file a petition for leave to intervene in accordance with Rule 72 of the Commission's rules of practice and procedure (46 CFR 502.72).

It is further ordered, That, except as provided in Rules 159 and 201(a) of the Commission's rules of practice and procedure (46 CFR 502.159), (46 CFR 502.201(a)), all documents submitted by any party of record in this proceeding shall be filed in accordance with Rule 118 of the Commission's rules of practice and procedure (46 CFR 502.118), as well as being mailed directly to all parties of record.

By the Commission.

Francis C. Hurney,

Secretary.

A. P. Moller-Maersk Line, A. P. Moller, 8 Kongens Nytorv, DK-1098 Copenhagen K, Denmark.

Moller Steamship Company, Inc., One World Trade Center, Suite 3527, New York, New York 10048.

FMC No(s). 6, 10, 52, 69

AB Scanfreight, Box 8873, 402 72 Gothenburg, Sweden.
c/o Scanfreight Inc., 79 Wall Street, New York, New York 10005.

FMC No(s). 15, 17, 18

Ace Lines, Mr. Glenn Scherkenbach, President, 303 East Ohio Street, Suite 2102, Chicago, Illinois 60611.

FMC No(s). 9

Ace Lines Limited, 50 Francisco Street, Suite 210, San Francisco, California 94133.

FMC No(s). 1, 2, 3

Admiral Line, Ltd., Interocean Marketing and Shipping Company Inc., 2381 West Flagler Street, Suite 200, Miami, Florida 33135.

FMC No(s). 1

Agromar Line, Cia. Agropecuaria y Maritima, Santa Rosa Ltda., P.O. Box 1578, Barranquilla, Colombia.
c/o Kersten Shipping Agency, Inc., 71 Broadway, New York, New York 10006.

FMC No(s). 6, 7, 9

Air-Sea International, Inc., c/o International Tariff Services, Inc., 815 15th Street, N.W., Suite 538, Washington, D.C. 20005.

FMC No(s). 1

Alexander Shipping & Navigation Co., 557 El-Horria Avenue, Alexandria, Arab Republic of Egypt.

Tilston Roberts Corp., 17 Battery Place, New York, New York 10004.

FMC No(s). 1

Alltransport Inc., Kurt Konodi-Floch, Executive Vice President, 300 South Wacker Drive, Chicago, Illinois 60606.

FMC No(s). 3, 4

Aloha Consolidators International, John R. Adcock, Issuing Officer, 2350 E. Dominguez, Long Beach, California 90801.

FMC No(s). 1

Amber Maritime Corp., 1615 Northern Boulevard, Manhasset, New York 11030.

FMC No(s). 14

American Mail Line, 601 California Street, San Francisco, California 94108.

FMC No(s). 5, 12, 14

American Pacific Container Line, Inc., J. J. McGowan, Pier 27—P.O. Box 7731, San Francisco, California 94120.

FMC No(s). 1

American President Lines, Ltd., D. J. Morris, Director of Pricing, 601 California Street, San Francisco, California 94108.

FMC No(s). 65, 67

Ancora Shipping N. V., John B. Gorsiraweg 6, Willemstad, Curacar.

Armilla International (Washington) Inc., General Agents, Abe S. Ashcanase, Senior Vice President, 901 N. Washington Street, Alexandria, Virginia 22314.

FMC No(s). 1

Anglo African Trading Co., Ltd., Bank of Nova Scotia Building, Road Town, Tortola, B.W.I.

Sweden International Shipping Corp., 36 Sherwood Place, Greenwich, Connecticut 06830.

FMC No(s). 1, 2

Anglo European Container Line, Robert Dosomie, Issuing Officer, Ocean Center Building, 110 West Ocean Boulevard, Suite 533, Long Beach, California 90802.

FMC No(s). 2

Aquarius Intermodal, Inc., Frank R. Bailey, 1932 Lebanon Street, Hyattsville, Maryland 20783.

FMC No(s). 1

Arctic Line, Murmansk Steamship Company, UL. Kominterna Company, Murmansk, U.S.S.R.

International Tariff Services, Inc., 815 15th Street NW., Suite 538, Washington, D.C. 20005.

FMC No(s). 8

Armagua Line, Armadora Maritima Guatemalteca, S.A., P.O. Box 1008, Guatemala City, Guatemala.
c/o Hansen & Tidemann, Inc., 442 Canal Street, Suite 310, New Orleans, Louisiana 70130.

FMC No(s). 2, 3, 4

Aspen Steamship Corporation, 767 Fifth Avenue, New York, New York 10022.

FMC No(s). 1

Astron Forwarding Company, Lester A. Dent, President, P.O. Box 161, 75 Market Street, Oakland, California 94604.

FMC No(s). 1

Atlantic and Gulf—Singapore, Malaya, and Thailand Freight Tariff,

[1] For the purpose of service of this Order, each respondent carrier will receive as Attachment A only that page(s) of the Attachment which relates to its own tariffs.

c/o The Bangladesh Shipping Corp., 28/1, Toyenbee Circular Road, Motijheel Commercial Area, Dacca, Bangladesh.

Peralta Shipping Corp., 25 Broadway, New York, New York 10004.

FMC No(s). 2

Atlantic Cargo Services, AB, Strachan Shipping Co., 1600 American Bank Building, New Orleans, Louisiana 70130.

FMC No(s). 4

Atlantic Container Line, J. A. McFarlane, Manager Conference Dept., 80 Pine Street, New York, New York 10005.

FMC No(s). 27

Atlantic Cross Lines, Gene K. Nakamura, Manager, International Traffic, 100 Bush Street, San Francisco, California 94104.

FMC No(s). 2

Atlantic Direct Service, 1500 Walnut Street, 19th Floor, Philadelphia Pennsylvania 19102.

FMC No(s). 1

Atlantica Line (Atlantica S.p.A., Genoa, Italy), Containership Agency, Inc., New York, New York.

FMC No(s). 15

Atlanttrafik Express Service.
c/o AB Atlanttrafik, Box 2524, S–403 17 Gothenburg, Sweden.
c/o Leffler & Malmros, Inc., 636 Fifth Avenue, New York, New York 10020.

FMC No(s). 12

Bahama Freight Services, Ltd., (Gulf Shipping Limited, series), Transportation Tariff Publishers, 2311 University Blvd. W., Wheaton, Maryland 20902.

FMC No(s). 2, 3, 4

Balken Consolidators, Inc., Robert A. Ballock, 3987 San Pablo Avenue, Emeryville, California 94608.

FMC No(s). 1

Baltic Shipping Co., 5, Mezhevoi Canal, Leningrad–I. 35, U.S.S.R.

G. Fettkoter, Agent, 47, Burgermeister, Smidt-Strasse 47, D 2800 Bremen 1, Germany.

FMC No(s). 7

Baltic Shipping Company, Paul Zottoli, Pricing Manager, 67 Walnut Avenue, Clark, New Jersey 07066.

FMC No(s). 18

Bancroff Inc., Aquilino de La Guardia No. 8, Panama, R.P.

Atlantic Shipping Co., Agent, 1150 S.W. First Street, Miami, Florida 33130.

FMC No(s). 1, 2

Barb Shipping Company, Inc., Andrew P. Aquino, President, 116 John Street, New York, New York 10028.

FMC No(s). 1

Batavier Container Line, A Service of Wm. H. Muller & Co., (U.K.) Ltd., 78 Broadway, Stratford, London E15, 1NG, England.

Trans-World Tariff & Research Service, Inc., 1341 G. Street, N.W., Suite 915, Washington, D.C. 20005.

FMC No(s). 1

Belama Line Ltd., Cacena Corporation, Agent, 6501 Northwest 36th Street, Miami, Florida 33166.

FMC No(s). 1

Belize Shipping Co. Ltd. (Belize Line).
c/o Hansen & Tedeman, One World Trade Center, New York, New York 10048.

FMC No(s). 1

Ben Federico Freight Consolidators, Inc., 1015 North America Way, Port of Miami, Miami, Florida 33132.

FMC No(s). 2

Bentsen Line, S.E.L. Maduro (Florida) Inc., Agent, P.O. Box 011470, Miami, Florida 33101.

FMC No(s). 2

Bermuda Express Service.
c/o Norton, Lilly & Company, Inc., 90 West Street, New York, New York 10006.

FMC No(s). 13

Bestway International, 2472 East Main Street, Bridgeport, Connecticut 06610.

FMC No(s). 1

Bimini Conveyors, Ltd., Bimini, Bahamas,

Transportation Tariff Publishers, 2311 University Blvd. W., Wheaton, Maryland 20902.

FMC No(s). 1, 2

Black Sea Canada–U.S.A. Line, Morflot America Shipping, 67 Walnut Avenue, Clark, New Jersey 07066.

FMC No(s). 4

Black Sea Shipping Co., Norton Lilly and Co., Inc., 90 West Street, New York, New York 10006.

FMC No(s). 15, 18

Blue Ridge Lines, Blue Ridge Shipping & Trading Co., Inc., 130 Bush Street, San Francisco, California 94105.

FMC No(s). 2

Blue Star Line Ltd., Albion House, 35 Leadenhall Street, London EC 3A, 1 AR, England.
c/o E. A. Gilbert, Jr., Owners Representative, The Blue Star Line, Inc., One California Street, San Francisco, California 94111.

FMC No(s). 8

Bocimar N.V. Antwerp, Belgium, Atlantic Overseas Corporation, General Agents, Five World Trade Center, New York, New York 10048.

FMC No(s). 1

Boston Consolidation Service, Inc., P.O. Box 75, Boston, Massachusetts 02129.

FMC No(s). 8

British Yukon Navigation Company, Ltd., F. A. Taylor, Marketing Manager, Post Office Box 4070, White Horse, Yukon Territory YIA 3T1.

FMC No(s). 2

Buffex, Division of Frontier Distribution Line, Inc., International Tariff Services, Inc., 815 15th Street, N.W., Suite 538, Washington, D.C. 20005.

FMC No(s). 2

C P Rail (Canadian Pacific Limited), J.C.C. Ferfusson, Manager, 150 Henry Avenue, Winnipeg, Manchester, R3B OJ7, England.

FMC No(s). W.1

C.M.B. (Compagnie Maritime Belge) (Lloyd Royal), St. Katelijnevest 61, B–2000, Antwerpen, Belgium.

Atlantic Overseas Corporation, General Agents, Five World Trade Center, New York, New York 10048.

FMC No(s). 1, 2, 4

Cacena Line, Ltd., Cacena Corporation, 6501 North West 36th Street, Miami, Florida 33166.

FMC No(s). 5

Canadian Intracoastal Container Line, Inc., 501 Army Street, San Francisco, California 94124.

FMC No(s). 1

Cape Cross Lines (Cross Lines, Inc.), Gene K. Nakamura, Manager, International Traffic, 100 Bush Street, San Francisco, California 94104.

FMC No(s). 4

Cargo Lines Ltd., Via Motta 18, Chiasso, Switzerland.
c/o Cargo Worldwide, Inc., Mr. Robert D. Hofmann, Agent, 39 Broadway, New York, New York 10006.

FMC No(s). 8, 9, 10

Cargo Management Corporation, c/o International Tariff Services, Inc., Suite 538 Bowen Bldg., Washington, D.C. 20005.

FMC No(s). 1

Cargo Systems International, Guenter Perl, 43 Potter Lane, Halesite, New York 11743.

FMC No(s). 1

Cargo Systems International, 1177 Clinton Avenue, Irvington, New Jersey 07111.

FMC No(s). 2,3

Caribbean Container Express, Inc., Apartado 6974, Panama 5, Republic of Panama.

Pioneer Shipping Inc., Agents, P.O. Box 011363, Flagler Station, Miami, Florida 33101.

FMC No(s). 1

Caribbean Freightcon Inc., 4310 N.W. 36th Avenue, Suite 103, Miami, Florida 33142.

FMC No(s). 1

Caribbean Line, Smith & Johnson (Shipping), Inc., 39 Broadway, New York, New York 10006.

FMC No(s). 1, 2, 4

Caribbean Lines Corporation, 920 Broadway, Riviera Beach, Florida 33404.

FMC No(s). 1

Caribbean Parcel Carriers, c/o Trade Routes, Inc., 520 West Avenue, Norwalk, Connecticut 06850.

FMC No(s). 1, 2

Caribe Container Line, Mainstream Forwarding Co., Inc., P.O. Box 494, Greenville, Mississippi 38701.

FMC No(s). 1

Cayman Caribbean Carriers, Troyman Chartering, Inc., Issuing Agents, 19 Rector Street, Suite 1904, New York, New York 10006.

FMC No(s). 1

Central Gulf Lines, Inc., One Whitehall Street, New York, New York 10004.

FMC No(s). 12, 14

Chesapeake Shipping, Inc., Charles W. Thomas, President, 1961 Benhill Avenue, Baltimore, Maryland 21226.

FMC No(s). 2

Chieh Sheng Maritime S.A. Panama, (Ta Peng Steamship Company, Ltd.), 64–70 Chung Ching S. Road, Sec. 1, Taipei, Taiwan.
c/o Ta Peng Lines (New York), Inc., 25 Broadway, New York, New York 10004.

FMC No(s). 1, 2, 3, 4, 5

Christensen Canadian African Lines, 360 St. James St. West, Montreal, Quebec, Canada H2Y 2S2.

FMC No(s). 1, 3, 4

Citadelle Line S.A., 1400 Winston Plaza, Melrose Park, Illinois 60160.

FMC No(s). 4, 5

Citadelle Line S.A. Panama, Anchor Shipping Corporation, 327 South La Salle Street, Chicago, Illinois 60604.

FMC No(s). 3

Cobelfret Lines S.P.R.L., 150 Mechelse Steenweg, Antwerp, Belgium.

FMC No(s). 5

Columbia Export Packers, Inc., Harold E. Kleinhenz, Tariff, Publishing Officer, 19032 South Vermont Avenue, Torrance, California 90502.

FMC No(s). 1, 2

Columbus Line Incorporated, Kenneth R. Egan, Vice President—Traffic, One World Trade Center, Suite 3247, New York, New York 10048.

FMC No(s). 22

Combi Line, Hapag-Lloyd AG, Ballindamm 25, 2000 Hamburg 1, West Germany.
Intercontinental Transport, Wilhelminakade 39, Rotterdam 3005, The Netherlands.

FMC No(s). 10

Commodore Ro/Ro Service, Commodore Cruise Lines, 1015 North American Way, Miami, Florida 33132.

FMC No(s). 1

Compagnie General Transatlantique, (French Line), 555 Fifth Avenue, New York, New York 10017.

FMC No(s). 8

Compagnie Maritime Belge (Lloyd Royal) s.a., Atlantic Overseas Corporation, General Agents, Five World Trade Center, New York, New York 10048.

FMC No(s). 2

Companhia Maritima Nacional, Avenida Rio Branco, 25, 10 Andar, Rio de Janeiro-RJ-Brazil.

FMC No(s). 1

Compania Celta Maritima, S.A., Avda. Jose Antonio, 28, Apartado, 16, Coslada, Madrid, Spain.

Roberts Steamship Agency, 520 ITM Bldg., 2 Canal St., New Orleans, Louisiana 70130.

FMC No(s). 1

Compania Chilena de Navegacion Interoceanica, Valparaiso, Chile.

FMC No(s). 1

Compania Maritime Del Nervion, S.A., (Nervion Line), Kerr Steamship Co., Inc., 327 St. Charles Avenue, New Orleans, Louisiana 70130.

FMC No(s). 5

Compania Peruana De Vapores, (Peruvian State Line), Gamarra 676, Chucuito, Callao, Peru.

Tilston Roberts Corporation as General Agents, 17 Battery Place, New York, New York 10004.

FMC No(s). 10, 11, 13

Compania Sud-Americana de Vapores, Blanco 895, Valparaiso, Chile.

c/o Chilean Line, Inc., One World Trade Center, New York, New York 10048.

FMC No(s). 6, 9

Computerized Freight-Management Corporation, 1440 Broadway, Suite 1257, New York, New York 10018.

FMC No(s). 1

CONFICO, Consolidated Forwarders Intermodal Corporation, c/o International Tariff Services, Inc., 815 Fifteenth Street, N.W., Suite 538, Washington, D.C. 20005.

FMC No(s). 1

Consolidadora Del Caribe S.A., Avenida Tulum Y Uxmal, Cancun, Quintana Roo, Mexico.

Transportation Tariff Publishers, 2311 University Blvd., Wheaton, Maryland 20902.

FMC No(s). 1

Consorcio Naviero Candelarias, Ltd., Puente 9 de Diciemdre, Caracas, Venezuela.

Cacena Corporation, 5–01 Northwest 36th St., Miami, Florida 33166.

FMC No(s). 2, 3

Container America Line, 2641 S. Leavitt, Chicago, Illinois 60608.

FMC No(s). 1

Contract Marine Carriers, Inc., Edward Finnigan, Tariff Publishing Officer, 1201 Corbin Street, Port Elizabeth, New Jersey 07201.

FMC No(s). 1

Contramar S.A., 15 Klipperstraat, B–2030 Antwerpen, Belguim.

FMC No(s). 13

Crescent Lines, Inc., Gene K. Nakamura, Manager, International Traffic, 100 Bush Street, San Francisco, California 94104.

FMC No(s). 1

Crusader Shipping Co., Ltd., P.O. Box 192, Wellington 1, New Zealand.
c/o E.A. Gilbert, Jr., Owners Representative, One California Street, San Francisco, California 94111.

FMC No(s). 1, 3, 4, 8, 9

Cutlass Steamship Corporation, 680 Beach Street, San Francisco, California 94109.

FMC No(s). 6, 9, 10

Daggard International Shipping Corporation, John B. Hammon, President, 800 South Claremont, San Mateo, California.

FMC No(s). 1

Darojo Shipping Inc., International Tariff Services, Inc., Issuing Agents, 815 15th Street, N.W., Washington, D.C. 20005.

FMC No(s). 2

Dart Containerline Company Limited, Reid House, Reid Street, Hamilton, Bermuda.
A.W. Hall, Issuing Officer, Dart Containerline Incorporated, 5 World Trade Center, New York, New York 10048.

FMC No(s). 29

Delta Line, Delta Steamship Lines, Inc., P.O. Box 50250, New Orleans, Louisiana 70150.

FMC No(s). 44

Domestic and International Services, Incorporated, E.K. Swanson, One Charles Center, Baltimore, Maryland 21201.

FMC No(s). 1

Doric Shipping Corporation, International Tariff Services, Inc., Issuing Agents, 815 15th Street, N.W., Washington, D.C. 2005.

FMC No(s). 1, 2

Dorsey Express, Inc., Joseph F. Cipriano, President, P.O. Box 789, Glen Burnie, Maryland 21061.

FMC No(s). 1

East Coast South America/Guam Agreement, Henri P. Blok, Agent, 417 Montgomery Street, San Francisco, California 94104.

FMC No(s). 1

ECCA Line, Transportes Maritimos de Honduras, S.A., Tegucigalpa, Honduras, C.A.
c/o Nordship Agencies, Inc., One East Wacker Drive, Chicago, Illinois 60601.

FMC No(s). 1, 2, 3, 4

Ecuadorian Steamship and Trading Company, c/o International Shipping Corp., P.O. Box 1309, Miami, Florida 33101.

FMC No(s). 1

El Remo, Ltd., P.O. Box 694, Grand Cayman, B.W.I.
Milo Parks, P.O. Box 87036, Houston, Texas 77017.

FMC No(s). 1

Empresa Lineas Maritimas Argentinas, S.A., (E.L.M.A.) Argentine Lines, Nedlloyd Inc., 5 World Trade Center, Suite 617, New York, New York 10048.

FMC No(s). 26

Ensena Marina Line, Anchor Shipping Corporation, 327 South LaSalle Street, Chicago, Illinois 60604.

FMC No(s). 1, 2

Euro-Con International of Pennsylvania, Inc., James W. Edgin, Vice-President, 3259

Whitebrook Plaza, Suite 210, Memphis, Tennessee 38118.

FMC No(s). 7

Euro-Con International, Inc., James A. Acuff, Vice President, Operations, 3259 Whitebrook Plaza, Suite 210, Memphis, Tennessee 38118.

FMC No(s). 4

Euro-Freight Lines, Ltd., Engelgasse 9, 4002 Basel, Switzerland.

Bjoern Timmerman, Issuing Officer, 17 Battery Place, New York, New York 10004.

FMC No(s). 1

Eurofreight Container Service, c/o International Tariff Services, Inc., 815 Fifteenth Street, N.W., Washington, D.C. 20005.

FMC No(s). 1

Evergreen Line, Evergreen Marine Corporation, 63, Sung Chiang Road, Taipei, Taiwan, Republic of China.

FMC No(s). 37

Far East Container Service, Michael P. Beidleman, Issuing Officer, 1540 West Ninth Street, Long Beach, California 90813.

FMC No(s). 1

Farrell Lines Incorporated, (American Export Lines, Series), H. F. Hennigar, General Manager, 17 Battery Place, New York, New York 10004.

FMC No(s). 155, 168

Farrell Lines, Inc., H. Hennigar, General Manager, 17 Battery Place, New York, New York 10004.

FMC No(s). 73, 118, 130, 143, 151, 174, 151, 184

Farrell Lines, Incorporated, One Whitehall Street, New York, New York 10004.

FMC No(s). 24, 48

Farrell Lines, Incorporated, Ross A. Levin, Rates & Tariffs, One Market Plaza, Suite 2400, San Francisco, California 94105.

FMC No(s). 30, 35

Flecha Nautica S.A., 2381 Flagler Street, Suite 210, Miami, Florida 33135.

FMC No(s). 1

Forest Lines, David W. Nottage, Assistant Treasurer, International Navigation Limited, P.O. Box N–7790, Suite 308, Austin T. Levy Building, East Bay St., Nassau, Bahamas.

FMC No(s). 11

Forum Line, The General Manager, Pacific Forum Line Limited, Matauti-Tai, P.O. Box 655, Apia, Western Samoa.

FMC No(s). 1

Fracht FWO, Inc., International Tariff Services, Inc., 815 15th Street, N.W., Suite 102, Washington, D.C. 20005.

FMC No(s). 1

Frank P. Dow Co., Inc., M. R. Edwards, Secretary, 354 So. Spring Street, Los Angeles, California 90013.

FMC No(s). 1

Fred F. Noonan Company, Inc., c/o International Tariff Services, Inc., 815 Fifteenth Street, N.W., Washington, D.C. 20005.

FMC No(s). 2

Fritz Transportation International, Lynn C. Fritz, Managing Director, 244 Jackson Street, San Francisco, California 94111.

FMC No(s). 1

Geo. S. Bush & Co., Inc., J. W. Hansford, President, 259 Colman Building, Seattle, Washington, 98104.

FMC No(s). 1

Golden Marine Transport, Inc., 750 N.E. 7th Avenue, Dania, Florida 33004.

FMC No(s). 1

Grancolombiana Line, Flota Mercante Grancolombiana, S.A., c/o Grancolombiana (New York), Inc., One World Trade Center, Suite 1667, New York, New York 10048.

FMC No(s). 22, 30, 31

Grand Trans-Pacific Corporation, Manila, Philippines.

International Tariff Services, 505 Landmark Building, Washington, D.C 20005.

FMC No(s). 1

Great Lakes & European Lines, Inc., Warren A. Ireland, Vice President, 222 South Riverside Plaza, Suite 2310, Chicago, Illinois 60606.

FMC No(s). 3, 4, 5, 6

Great Lakes Transcaribbean Line, G.M.B.H. & CO., Grimm 8 2000 Hanburg 11, West Germany.

Protos Shipping Inc., Issuing Agents, 332 South Michigan Avenue, Chicago, Illinois 60604.

FMC No(s). 1, 20, 21, 22, 24, 25, 26, 27

Great Lakes/Japan Memorandum, Mitsui-O.S.K. Lines, Ltd., Issuing Agents, One World Trade Center, Suite 2211, New York, New York 10048.

FMC No(s). 2

Gulf & Caribbean Shipping Inc., 2000 East Bay St., P.O. Box 3036, Jacksonville, Florida 32206.

FMC No(s). 2

Gulf Overseas Towing Corporation, International Tariff Services, Inc., 815 15th Street, N.W., Washington, D.C. 20005.

FMC No(s). 1

H. & J. Isbrandtsen Ltd., Allied Intercontinental Agency, Inc., 19 Rector Street, New York, New York 10006.

FMC No(s). 2, 3

Hamsa Line, c/o Caribbean Agencies, Inc., P.O. Box 370189, Miami, Florida 33137.

FMC No(s). 1

Hansa Line, Deutsche Dampfschifffahrts-Gesellschaft "Hansa", Schlachte 6-Postfach 107969, Bremen, Germany.

F. W. Hartmann & Co., Inc., General Agents, 17 Battery Place, New York, New York 10004.

FMC No(s). 5, 6

Hapag-Lloyd A.G., Ballindamm 25, Hamburg, Germany.

United States Navigation, Inc., 17 Battery Place, New York, New York 10004.

FMC No(s). 92, 115, 117

Hapag-Lloyd AG, Ballidamm 25, Hamburg, German.

c/o Biehl & Company, Inc., 416 Common Street, New Orleans, Louisiana 70130.

FMC No(s). 95

Harrison Line, Thos. & Jos. Harrison, Ltd., Mersey Chambers, Liverpool 2, England.

c/o Phillips-Parr, Inc., 2937 International Trade Mart Bldg., New Orleans, Louisiana 70130.

FMC No(s). 3, 6

Haylock Shipping Co., Ltd., c/o Roberts Steamship Agency, Inc., 2300 ITM Bldg., 2 Canal Street, New Orleans, Louisiana 70130.

FMC No(s). 1

Hellenic Lines Limited, C.N. Velokas, Inward Traffic Manager, Eastern Area, 39 Broadway, New York, New York 10006.

FMC No(s). 5

Hellenic Lines Limited, Evans U. Sismanson, Assistant Traffic Manager, 39 Broadway, New York, New York 10006.

FMC No(s). 10, 13

Hellenic Lines Limited, L. W. Lee, General Traffic Manager, 39 Broadway, New York, New York 10006.

FMC No(s). 29, 30

Hellenic Lines Limited, Peter A. Low, Manager/East Gulf, 2812 International Trade Mart, New Orleans, Louisiana 70130.

FMC No(s). 1

Hellenic Lines Limited, S. Desantis, Traffic Manager, Hellenic Lines, 39 Broadway, New York, New York 10006.

FMC No(s). 7, 16

Herman Ludwig of America, Inc., Hans Pirolt, Station Manager, 1213 Arbor Vitae, Inglewood, California 90301.

FMC No(s). 2

Herman Ludwig of America, Inc., Herbert Abbe, Jr., Issuing Officer, 1 World Trade Center, New York, New York 10048.

FMC No(s). 1

Hispan Line, Antillana de Navegacion, S.A., P.O. Box 8–4170, San Jose, Costa Rica.

c/o Nordship Agencies, Inc., One East Wacker Drive, Chicago, Illinois 60601.

FMC No(s). 1, 2

Hoegh Line, c/o Nedlloyd Inc., 5 World Trade Center, Suite 617, New York, New York 10048.

FMC No(s). 60

I.C.S. Freight Services, Inc., Integrated Container Services, Inc., 522 Fifth Avenue, New York, New York 10030.

FMC No(s). 1

I.M.S., Inc., Peter E. Kirn, President, International Moving Service, 4416 Wheeler Avenue, Alexandria, Virginia 22304.

FMC No(s). 1

I.S.I. Line, 156 East 52nd Street, Suite 903, New York, New York 10022.

FMC No(s). 1

Iceland Steamship Co. Ltd., Reykjavik, Iceland.

A. L. Burbank & Co. Ltd., Suite 622, Law Building, Norfolk, Virginia 23510.

FMC No(s). 5

IML Freight, Inc., H. Lynn Davis, Director of Commerce and Traffic, P.O. Box 30277, Salt Lake City, Utah 84125.

FMC No(s). 1

Inca Lines, 200 E. 6th Street, Suite 507, Courthouse Square Bldg., Ft. Lauderdale, Florida 33301.

FMC No(s). 1

Independent Cargo Express, Inc., Richard A. Ferguson, Traffic Manager, P.O. Box 77102, 1225 Sixth Street, San Francisco, California 94107.

FMC No(s). 7, 10, 12, 15

Independent Cargo Express, Inc. (Series of Alltrans International, Inc.), Richard A. Ferguson, Traffic Manager, P.O. Box 77102, 1225 Sixth Street, San Francisco, California 94107.

FMC No(s). 8

Inter-American Lines, Inc., P.O. Box 4620—Main Post Office, Miami, Florida.

FMC No(s). 16

Intercontinental Transport (ICT) BV, Wilhelminakade 39, Rotterdam 3005, Netherlands.

c/o Biehl & Company, Inc., 416 Common Street, New Orleans, Louisiana 70130.

FMC No(s). 18

Intercontinental Transport (ICT) BV, Wilheminadade 39, P.O. Box 545, Rotterdam 3005, The Netherlands.

Balfour, Guthrie & Co., Ltd., as Agents, One Maritime Plaza, San Francisco, California 94111.

FMC No(s). 35

Intercontinental Transportation Services, Ltd., Standard Fruit & Steamship Company, Issuing Agents, 50 California St., San Francisco, California 94111.

FMC No(s). 1

Interdom Lines, Strachan Shipping Co., P.O. Box 9667, Savannah, Georgia 31402.

FMC No(s). 1

Intermodal Carriers International Inc., H. Wiesenmaier, General Manager, World Trade Center, San Francisco, California 94111.

FMC No(s). 2, 3, 4

Intermodal Container Service. Ltd., 47 Pearl Street, Brooklyn, New York 11201.

FMC No(s). 5, 6, 8, 10

Intermodal Container Services Ltd., Dennis J. McCabe, 17 Battery Place (Room 1543), New York, New York 10004.

FMC No(s). 2, 3, 4, 7, 9

Intermodal Freight Forwarding, Inc., A.J. De Batto, 116 Nassau Street, New York, New York.

FMC No(s). 2

International (Foreign) Household Goods Maritime Tariff, F.L. Wyche, Executive Secretary, 2425 Wilson Boulevard, Arlington, Virginia 22201.

FMC No(s). 1

International Export Services, Inc., 619 Redna Terrace, Cincinnati, Ohio 45215.

FMC No(s). 1

International Express Co., Ltd., North House, 78–84 Ongar Road, Brentwood, Essex, C.M. 159 BG.

John Watkins, Chairman, International American Enterprises, 375 Park Avenue, Suite 2801, New York, New York 10022.

FMC No(s). 1

International Household Goods Maritime Tariff, c/o Mover's International, Nelson J. Cabrera, Owner, P.O. Box 2302, Hialeah, Florida 33012.

FMC No(s). 1

International Moving Consultants, Inc., Robert Robotti, President, 43–10 21st Street, Long Island City, New York 11101.

FMC No(s). 1

International Navigation Ltd. (Forest Lines), 29 Broadway, New York, New York 10006.

FMC No(s). 9

International Warehouse Industries, Inc., c/o International Tariff Services, Inc., 815 15th Street, N.W., Suite 538, Washington, D.C. 20005.

FMC No(s). 1

Intertrans Inc., 575 Madison Avenue, New York, New York 10023.

FMC No(s). 1

Interworld Tradewinds Shipping Inc., S.A., Port Laudania, 750 N.E. 7th Avenue, Dania, Florida 33004.

FMC No(s). 1

Iran International Shipping, Assad Ferasat, President, 427 West 5th Street, Los Angeles, California 90013.

FMC No(s). 1

Iran Ocean Shipping Co., Ltd., 3rd Avenue, Aban, Tehran, Iran.

Peralta Shipping Corporation, Filing Agent, 25 Broadway, New York, New York 10004.

FMC No(s). 1

Iraqi Line, Iraqi General Enterprise For Maritime Transport, P.O. Box 766, Bashrah, Iraq.

Uiterwyk Corporation, Uiterwyk Center, 3105 West Waters Avenue, Tampa, Florida 33614.

FMC No(s). 1

Island Ro-Ro, Inc., Henry G. Hohorst, President, 104 East 40th St., New York, New York 10016.

FMC No(s). 1

Island Shippers, Gwendolyn E. Wilson, Director, 601 Madison Street, Brooklyn, New York.

FMC No(s). 3

Islaship Lines, c/o Island & Worldwide Shipping Agency, Inc., P.O. Box S–2367, San Juan, Puerto Rico 00903.

FMC No(s). 1

Ital-Pacific Line, c/o Transmarine Navigation Corporation, 465 California Street, San Francisco, California 94104.

FMC No(s). 3

Italian Line ("Italia" Societa Di Navigazione), N. K. Boyd, Tariff Publishing Officer, 100 California Street, Suite 820, San Francisco, California 94111.

FMC No(s). 26

Italpacific Line, Transmarine Navigation Corporation, General Agents, 465 California Street, San Francisco, California 94104.

FMC No(s). 2

J. Lauritzen Line, Beaufort Navigation, Inc., 400 California Street, San Francisco, California 94104.

FMC No(s). 3

Japan/Great Lakes Memorandum, Mitsui-O.S.K. Lines, Ltd., Issuing Agents, One World Trade Center, Suite 2211, New York, New York 10048.

FMC No(s). 39

Jean Associates, Inc., 1135 West 8th Avenue, Suite 7, Anchorage, Alaska 99501.

FMC No(s). 1

Jeuro Container Line, c/o G. A. Murphy, Cargo Distributors Inc., 115 Sansome Street, Suite 1217, San Francisco, California 94104.

FMC No(s). 1

Johnson Scan Star, Lennart Kron, Conference Manager, Norrlandsgatan 20, Stockholm, Sweden.

FMC No(s). 14

Jugoceanija Line, Jugoslavensica Oceanska Plovidba, Gulf Coast Shipping Corp., 1900 International Trade Mart, New Orleans, Louisiana 70130.

FMC No(s). 9, 10

K.N.S.M. (Antillen N.V.) Curacao, c/o Koninklijke Nederlandsche, Stoombootmaatschappij (Antillen) N.V., P.O. Box 231, Willemstad, Curacao, Netherlands Antilles.

Royal Netherlands Steamship Company (Antilles) N.V., Agent, 5 World Trade Center, Suite 7411, New York, New York 10048.

FMC No(s). 1

Kambara Kisen Co., Ltd., Makoto Kambara, President, Kambara Building, 2–9 Banchi, 1–Bancho, Chiyoda-Ku, Tokyo, Japan.

FMC No(s). 4

Kawasaki Kisen Kaisha, Ltd., "K" Line Kerr Corporation, General Agents, One Market Plaza, Suite 2400, San Francisco, California 94105.

FMC No(s). 60

Kirk Line, R. B. Kirkconnell & Bro. Ltd., Box 1372, Grand Cayman, Cayman Islands.

FMC No(s). 1, 3, 6

Korea Express Lines, J. K. Koh, Agent, Korea Express U.S.A., Inc., One World Trade Center, Suite 4525, New York, New York 10048.

FMC No(s). 3

Kurdian International Transport, Inc., Gregory H. Kurdian, President, Post Office Box 1562, Wichita, Kansas 67201.

FMC No(s). 1

Kuwait Boulder Shipping Co., K.S.C., Boulder Shipping Agency Ltd., General Agents, One Greenwich Plaza, Greenwich, Connecticut 06830.

FMC No(s). 1

L. Figueiredo Navegacao S.A., Caixa Postal 1459, Rio de Janeiro, Brazil.
c/o Dovar Shipping Agency, Inc., 21 West Street, New York, New York 10006.

FMC No(s). 7

La Flor De Mayo Express, Inc., 311 Bruckner Boulevard, Bronx, New York 10454.

FMC No(s). 3

Labay International Inc., P.O. Box 52170, Houston, Texas 66052.

FMC No(s). 1

Laudania Seaways, Inc., 750 N.E. 7th Avenue, Dania, Florida 33004.

FMC No(s). 1, 2

Lauritzen-Peninsular Reefers, Ltd., 1, Hammeremsgade, Copenhagen-K, Denmark.

c/o Beaufort Navigation, Inc., 95 East Putnam Avenue, Greenwich, Connecticut 06830.

FMC No(s). 2

Lifshultz Fast Freight, Inc., H. L. Rosenthal, Vice President-traffic, 28 North Franklin Street, Chicago, Illinois 60606.

FMC No(s). 6

Linea Naviera Nacional Costarricense, S.A., Nanaco Line, P.O. Box 1254, Miami, Florida 33101.

FMC No(s). 1

Lone Star International, Ltd., c/o Lone Star Shipping, Inc., 1318 Texas Avenue, Houston, Texas 77002.

FMC No(s). 1

Lykes Bros. Steamship Co., Inc., R. J. Finnan, Tariff Publishing Officer, 300 Poydras Street, New Orleans, Louisiana 70130.

FMC No(s). 30, 60, 83, 84, 97

Lyons Transport, Inc., First Avenue & Joliet Road, McCook, Illinois 60525.

FMC No(s). 7

Maeda Kisen Co., Ltd., P.O. Box 108, Nippon Building, 6–2, 2–Chome, Ohtemachi, Chiyoda-Ku, Tokyo.

General Steamship Corporation, Ltd., General Agents, 400 California Street, San Francisco, California 94104.

FMC No(s). 1

Mamenic Line, Marina Mercante Nicaraguense, S.A., P.O. Box 3523, Managua, Nicaragua.

c/o United States Navigation, Inc., 17 Battery Place, New York, New York 10004.

FMC No(s). 16, 19

Marine Express Line, S.A., San Pedro Sula, Honduras.

c/o Dalton Steamship Corporation, 736 Union Street, New Orleans, Louisiana 70130.

FMC No(s). 3, 4, 6

Maritime Company of the Philippine, 205 Juan Luna, Manila, Philippines.

FMC No(s). 6, 10

Maritime Expediters Line, c/o International Tariff Services, Inc., 815 Fifteenth Street, N.W., Suite 102, Washington, D.C. 20005.

FMC No(s). 1

Mayan Line, c/o Caribbean Agencies, Inc., 2125 Biscayne Boulevard, Miami, Florida 33137.

FMC No(s). 1

McLean Ocean Shipping, 215 No. Sampson Street, Houston, Texas 77003.

FMC No(s). 1

Medtrans, S.A., Via Layetana, 9, Barcelona 3, Spain.

Norton, Lilly & Co., Inc., 90 West Street, New York, New York 10006.

FMC No(s). 1

Melbourne/Sidney Consolidators, Phillip W. Schmidt, Owner, P.O. Box 6272, Long Beach, California 90806.

FMC No(s). 1

Merchants International, Inc., Arthur R. Clark, Jr., Vice President, 1616 First Street, S.W., Washington, D.C. 20024.

FMC No(s). 2

Meteoro Express, Inc., 521 Fernandez Juncos, Box 5512, Puerta de Tierra, Puerto Rico 00906.

FMC No(s). 1

Mexican Line, Transportacion Mexicana, S.A., Avenida De Los Insurgentes No. 432, Mexico 7, D.F., Republic of Mexico.

Transportation Tariff Publishers, 3211 University Blvd. W., Wheaton, Maryland 20902.

FMC No(s). 46

Mia-Caribe Consolidators, Inc., 7100 Northwest 36th Avenue, Miami, Florida 33147.

FMC No(s). 1

Micronesia Line, Holger R. Peters, Issuing Agent, 28 Hillside Avenue, San Anselmo, California 94960.

FMC No(s). 1

Mid-East Carriers, H. Wiesenmaier, Filing Agent, World Trade Center, Suite 219, San Francisco, California 94111.

FMC No(s). 1

Mid-Pacific Freight Forwarders, Raymond E. Brown, President, 3770 E. 26th Street, Vernon, California 90023.

FMC No(s). 6, 7

Middle East America Line S.A., Gavin Maritime Inc., 119 E. Ogden Ave., Hinsdale, Illinois 60521.

FMC No(s). 1, 2

Middle East Gulf Atlantic Lines (MEGA), Atlantic Overseas Corporation, General Agents, 5 World Trade Center, New York, New York 10048.

FMC No(s). 1, 2

Mini Line S.A., Monrovia, Liberia, Panama, R.P.

Mini Carriers Systems, Inc., P.O. Box 1103, Greenville, Mississippi 38701.

FMC No(s). 3, 4

Mitsui O.S.K. Lines, Ltd., 3–3, 5–Chome, Akasaka, Minato-ku, Tokyo, Japan.

c/o A. J. Iamundo, One World Trade Center, Suite 2211, New York, New York 10048.

FMC No(s). 49, 50, 53, 67, 73

Mogul Line, c/o Trans-World Tariff & Research Service, Inc., 1341 G Street, N.W., Suite 915, Washington, D.C. 2005.

FMC No(s). 1

Movers' & Warehousemen's Association of America, Inc., Agent, Carroll F. Genovese, Executive Director, 1001 North Highland Street, Arlington, Virginia 22201.

FMC No(s). 1

Moving and Packing International, Inc., Jose F. Miranda, 3301 Commerce Street, Houston, Texas 77003.

FMC No(s). 1

Murphy's Refrigerated Express, Inc., Robert W. Murphy, President, P.O. Box 2217, Newark, New Jersey 07114.

FMC No(s). 1

N. V. Nedlloyd Lijnen, Koninklijke Nedlloyd B. V., Nedlloyd, Inc., General Agents, 5 World Trade Center, New York, New York 10048.

FMC No(s). 40

N.Y.K. Line (Nippon Yusen Kaisha, Tokyo), Matson Agencies, Inc., as Agents, 100 Mission Street, San Francisco, California 94105.

FMC No(s). 27, 51

N.Y.K. Line, Nippon Yusen Kaisha, Matson Agencies, Inc., as Agents, P.O. Box 3933, San Francisco, California 94119.

FMC No(s). 84

N.Y.K. Line, Nippon Yusen Kaisha, 25 Broadway, New York, New York 10004.

FMC No(s). 42, 55

N.Y.K. Line, Nippon Yusen Kaisha, 20, 2-Chome, Marunouchi, Chiyoda-Ku, Tokyo, Japan.

N.Y.K. Line, One World Trade Center, Suite 5031, New York, New York 10048.

FMC No(s). 20, 38, 40, 43, 44, 45, 54, 56, 57

Nakamura Shipping Co., Ltd., Tokyo, c/o Gannet Freighting, Inc., 39 Broadway, New York, New York 10006.

FMC No(s). 2

Nakamura Shipping Co., Ltd., Tokyo, c/o International Tariff Services, Inc., 815 Fifteenth Street, N.W., Washington, D.C. 20005.

FMC No(s). 1

National Trading, Ltd., P.O. Box 3630, Carolina, Puerto Rico 00630.

International Tariff Services, Inc., 815 15th St., N.W., Washington, D.C. 20005.

FMC No(s). 1

Nauticus Line, Philip La Palio, Jr., Filing Agent, 36 S. State, Chicago, Illinois 60603.

FMC No(s). 2

Nautilius Chartering Inc., S.A., Aquilino de la Guardia No. 8, Panama, R.P.

c/o American Oceanic Shipping Corporation, 900 I.T.M. Building, New Orleans, Louisiana 70130.

FMC No(s). 12

Navale Et Commerciale Havraise Peninsulaire, 50 Boulevard Haussmann, F–75441, Paris, Cedex 09, France.

Atlantic Overseas Corp., Five World Trade Center, New York, New York 10048.

FMC No(s). 1, 2, 3

Naviera Capriles, S.A., International Tariff Services, Inc., 815 15th Street, N.W., Washington, D.C. 20005.

FMC No(s). 1

Naviera Margarita, C.A., c/o Associated Seas Agencies, Inc., 4310 N.W. 36th Avenue, Miami, Florida 33142.

FMC No(s). 1

Naviera Peninsular, S.A., c/o Quast and Co., Inc., Lykes Center, 300 Poydras Street, New Orleans, Louisiana 70130.

FMC No(s). 2

Naviera Peninsular, S.A., P.O. Box 5010, Panama City, S.R.P.

International Tariff Services, Inc., 815 15th Street, N.W., Washington, D.C. 20005.

FMC No(s). 1

Navieros Reconquista Armadora, S.A., Eagle Ocean Transport, Inc., Agent, 29 Broadway, New York, New York 10006.

FMC No(s). 1

Navimerca, C.A., Naviera Mercante Compania Anonima, P.O. Box 4146, Caracas, Venezuela.

Manuel Lopez, Issuing Agent, P.O. Box S–2367, San Juan, Puerto Rico 00903.

FMC No(s). 2

Navimex, S.A., Reforma 107, Mexico City 4, D.F., Mexico.

Arthur J. Ferrante, Oivind Lorentzen, Inc., General Agents, 522 Fifth Avenue, New York, New York 10036.

FMC No(s). 2

Nedlloyd Lijnen, c/o Nedlloyd Inc., 5 World Trade Center, Suite 617, New York, New York 10048.

FMC No(s). 63

Nedlloyd Lines, Sincere Building, 22d Floor, P.O. Box 45, Hong Kong.

FMC No(s). 59, 62

Nelmar Worldwide, Walter W. Blanken, President, 1179½ Roosevelt Avenue, Carteret, New Jersey 07008.

FMC No(s). 1

New World Shipping, Inc., L.R. Gazitua, Chairman of the Board, 2000 N.W. 70th Avenue, Miami, Florida 33122.

FMC No(s). 1, 2

Nichia Kaiun Kaisha, Ltd., "Nichia Lines," c/o International Tariff Services, Inc., 815 Fifteenth Street, N.W., Washington, D.C. 20005.

FMC No(s). 2, 3, 4

Nichia Lines, Nichia Kaiun Kaisha, Ltd., Osaka, Japan.

c/o Transpacific Transportation Company, 915 Norton Building, Seattle, Washington, 98104.

FMC No(s). 5

Nippon Express U.S.A. (Illinois), Inc., N. Watababe, Vice President, 1850 Brummel Drive, Elk Grove Village, Illinois 60007.

FMC No(s). 8

Nippon Express U.S.A. (Illinois), Inc., S. Otsuki, Vice President, 1850 Brummel Drive, Elk Grove Village, Illinois 60007.

FMC No(s). 1, 2

Nopal Caribe Lines, N.V., (The Northern Pan America Line A/S), P.O. Box 27, Smestad, Oslo 3, Norway.

Oivind Lorentzen, Inc., Agent, 522 Fifth Avenue, New York, New York 10036.

FMC No(s). 28, 30, 36

Nopal Line, P.O. Box 1018, 189 Reid Street, Hamilton, Bermuda.

Robert F. Kaihm, Issuing Agent, Nopal Atlantic Lines, 522 Fifth Avenue, New York, New York 10036.

FMC No(s). 23, 25

Nordana Line, D.F.D.S. A/S, Sankt Annae Plads 30, Copenhagen–K, Denmark.

c/o Barber Steamship Lines, Inc., 17 Battery Place, New York, New York 10004.

FMC No(s). 6

North Eleuthera Shipping Co., P.O. Box 72, Spanish Wells, Bahamas.

Transportation Tariff Publishers, 2311 University Blvd. W., Wheaton, Maryland 20902.

FMC No(s). 1

Northwest Maritime Corporation, William A. Kelly, President, 7100 S.W. Hampton Street, Suite 216, Portland, Oregon 97223.

FMC No(s). 1

NOSAC Lines, NOPAL Star Auto Carriers A/S, Industrigaten 45, Majorstua, Oslo 3, Norway.

c/o Robert F. F. Keihm, Jr., Olivind Lorentzen, Inc., 522 Fifth Avenue, New York, New York 10036.

FMC No(s). 2

Novo Marine Carrier Services, Ltd., David E. Vincent, Managing Director, Kowloon Freight Terminal, Canton Road, Kowloon, Hong Kong.

FMC No(s). 1

Orient Mid-East Lines, Inc., 35–39 Akti Miauli, Piraeus, Greece.

J. Mulara, Traffic Manager, Eagle Ocean Transport, Inc., 29 Broadway, New York, New York 10006.

FMC No(s). 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, 19, 20, 20, 21, 22, 30, 31, 33, 34, 35, 36, 38, 40, 42, 43, 44

Orient Overseas Container Line, Inc. (Orient Overseas Line (South East Asia) Incorporated, Series), Robert G. Jufer, Mgr., Intermodal Pricing, Eckert Overseas Agency, Inc., General Agents, 88 Pine Street, New York, New York 10005.

FMC No(s). 63, 63

Orient Overseas Container Line, Inc., Robert G. Jufer, Mgr., Intermodal Pricing, 88 Pine Street, New York, New York 10005.

FMC No(s). 11, 38, 47, 48, 74

Ozean/Stinnes-Linien, Ballindamm 8, 2000 Hamburg 1, Germany.

FMC No(s). 10

P & O Lines, Peninsular & Oriental Steam Navigation Co., Beaufort House, St. Botolph Street, London EC3A 7DX, England.

c/o P & O Inc., 155 Post Steet, San Francisco, California 94108.

FMC No(s). 6, 9, 10

Pacific Far East Line, Inc., H. P. Devery, Vice President, Traffic, One World Trade Center, New York, New York 10043.

FMC No(s). 80

Pacific Far East Line, Inc., J. T. Enzensperger, Manager-Pricing, One Embarcadero Center, San Francisco, California 94111.

FMC No(s). 74, 82

Pacific Far East Line, Inc., T. C. Ellicott-General Traffic Manager, One Embarcadero Center, San Francisco, California 94111.

FMC No(s). 14, 41, 60, 61, 70, 73, 77, 78, 79, 86, 88

Pacific Far East Line, Inc., One Embarcadero Center, San Francisco, California 94111.

FMC No(s). 43, 83, 90

Pacific Far East Line, Inc., T. C. Elliott, Vice President, Freight Operations Division, One Embarcadero Center, San Francisco, California 94111.

FMC No(s). 13, 64, 69, 71, 75, 76, 84, 85, 86, 87

Pacific Navigation System, c/o Jones & Guerrero Co., Inc., P.O. Box 7, Agana, Guam.

FMC No(s). 4

Pacific Van & Storage Co., Inc., Henry A. Pontes, President, 1415 W. Torrance Blvd., Torrance, California.

FMC No(s). 1

Palau Shipping Company, Inc., P.O. Box 6000, Koror, Palau 96940.

FMC No(s). 1, 2, 3, 4, 5

Pan Atlantic Lines, Chester, Blackburn & Roder, Inc., 1775 N.W. 70th Avenue, Miami, Florida 33159.

FMC No(s). 8, 9

Pan Caribbean Freightliner Inc., P.O. Box 340542, Coral Gables, Florida 33134.

FMC No(s). 1

Pan-Islamic Steamship Company, Ltd., Writers Chamber, Dunolly Road, Karachi, Pakistan.

Ocean Services Agency, Inc., Agents, 866 United Nation's Plaza, New York, New York 10017.

FMC No(s). 3

Panama Centroamericana De Navegacion S.A. (P.C.N.S.A.).

c/o Sealift Inc., 380 North Broadway, Jerico, New York 11753.

FMC No(s). 1

Pasa Line, Macoser De Honduras, S. De. R.L., Tegucigalapa, Honduras, C.A.

Pan Am Shipping Agencies, Inc., General Agents, 1222 I.T.M. Bldg., New Orleans, Louisiana 70130.

FMC No(s).1, 2

Peralta Westward Line, Peralta Shipping Corp., Agents, 25 Broadway, New York, New York 10004.

FMC No(s). 2

Philippine President Lines, Inc., Balfour, Guthrie & Co., Limited, Agent, One Maritime Plaza, San Francisco, California 94111.

FMC No(s). 2

Polynesia Line, Ltd., Nassau, Bahamas.
c/o Furness Interocean Corporation, 310 Sansome Street, San Francisco, California 94104.

FMC No(s). 3

Port Line Ltd., Blue Star Port Lines (Management) Ltd., Albion House, 35 Leadenhall Street, London EC 3A 1AR, England.

E. A. Gilbert, Jr., Owners Representative, The Blue Star Line, Inc., One California Street, San Francisco, California 94111.

FMC No(s). 1

Porto Rican Express Company, Inc., Mr. Fred S. Cacici, Manager, 114 Liberty Street, New York, New York 10006.

FMC No(s). 1

Prudential Lines, Inc., One World Trade Center, Suite 3601, New York, New York 10048.

FMC No(s). 46

Purchasing International, Ltd.
c/o International Tariff Services, Inc., 815 15th Street, N.W., Washington, D.C. 20005.

FMC No(s). 1

Puritan International Corporation.
c/o All Cargo Agencies, Inc., 126 State Street, Boston, Massachusetts 02109.

FMC No(s). 3, 4

Quisqueya Shipping Corporation, 444 Brickell Avenue, Suite 510, Miami, Florida 33010.

FMC No(s). 1

Rate agreement No. 9990, Maritime Container Lines, Ltd. & Navibel International, Ltd., International Tariff Services, 815 15th Street, N.W., Washington, D.C. 20005.

FMC No(s). 7

Retla Steamship Co., Richard T. Welsh, Vice President, 400 Oceangate, Suite 1400, Long Beach, California 90802.

FMC No(s). 7, 11, 12, 13, 14, 16, 17

Ro-Ro Transport Services, Inc., Edward J. Keane, President, 40 Rector Street, New York, New York 10006.

FMC No(s). 1

Roberts Intermodal Services, Inc., Robert C. Shugg, President, 40 Rector Street, New York, New York 10006.

FMC No(s). 1, 2

Royal Netherlands Steamship Co., Koninklijke Nederlandsche Stoomroot-Maatschappit B. V., Prins Hendrikkade 108–114, Amsterdam, The Netherlands.

FMC No(s). 39

Royal Netherlands Steamship Company (Antilles) N.V., 25 Broadway, New York, New York 10048.

FMC No(s). 25

Royal Netherlands Steamship Company (Antilles) N.V., 5 World Trade Center, Suite 7411, New York, New York 10048.

FMC No(s). 37

Rumania/U.S. Atlantic Rate Agreement, H.F. Hennigar, Issuing Officer.
c/o Farrell Lines, Inc., 17 Battery Place, New York, New York 10004.

FMC No(s). 2

Saguenay Shipping Limited, Mr. R. K. Eustace, Vice President, Marketing and Planning, 1060 University Street, Montreal, Quebec, H3B 3A3.

FMC No(s). 24, 25

Saipan Shipping Company, Inc., P.O. Box 8, Saipan, Mariana Islands 96950.

FMC No(s). 2, 4

Sandcaribe, Inc., A. Osvaldo Diez, President, P.O. Box 4042, Hialeah, Florida 33014.

FMC No(s). 1, 2

Scheepvaart Maatschappij Mar, Antil, Curacao, N.V., Pretermaaiweg 4–4A, Curacao, Netherland Antilles.

Island & Worldwide Shipping Agency, Inc., P.O. Box S–236, San Juan, Puerto Rico 00903.

FMC No(s). 1

Schreiber Intermodal Service, Mr. M. Neil Garson, 1400 Uhle Street, Arlington, Va. 22201.

FMC No(s). 1

Schuldt Atlantic Line dmbH & Co., 8 Ballindamm, 2, Hamburg 1, West Germany.

Hansen & Tideman, Inc., One World Trade Center, New York, New York 10048.

FMC No(s). 1

SCI Line, Norton, Lilly & Company, Inc., General Agents, 90 West Street, New York, New York 10006.

FMC No(s). 20

Sea Express Service.
c/o Thai Mercantile Marine, Ltd. & P. T. Samudera Indonesia, 2311 Realty Building, 71 Des Voeux Road, Central, Hong Kong.
c/o E. De Francesco, F. W. Hartmann & Co., Inc., 17 Battery Place, New York, New York 10004.

FMC No(s). 21, 22, 23, 24

Seamist Lines Ltd., Grand Cayman, B.W.I.
c/o Cacena Corporation, 51 South LeJeune Road, Coral Gables, Florida 33134.

FMC No(s). 1

Seatraders, Ltd., Port Laudania, 750 N.E. 7th Avenue, Dania, Florida 33004.

FMC No(s). 1

Seatrain Gitmo, Inc., V. M. Otero, Director of Pricing, Caribbean Services, Port Seatrain, Weehawken, New Jersey 07087.

FMC No(s). 1

Seatrain Lines, Inc., Port Seatrain, Weehawken, New Jersey 07087.

FMC No(s). 6

Security Forwarding Express, Inc., P.O. Box 593499 A.M.F., Miami, Florida 33159.

FMC No(s). 1

Sentinel Line, Anchor Shipping Corporation, Issuing Agents, 327 South La Salle Street, Chicago, Illinois 60604.

FMC No(s). 1, 2, 3, 4

Service Forwarding Co., Inc., John C. Kelley, President, 112 Pointer Street, Newark, New Jersey 07114.

FMC No(s). 2, 3

Serviocean Internacional, Inc., Valdor Services Corporation, Mario P. Santos, Secretary-Treasurer, 1200 Biscayne Boulevard, Suite 210, Miami, Florida 33132.

FMC No(s). 1

Shamrock Line Ltd. (Of Panama), K-C Lines, Inc. (General Agents), 1110 N.W. 19th Avenue, Miami, Florida 33125.

FMC No(s). 1

Shaw Savill & Albion Co., Ltd., 14–19 Leadenhall Street, London, England.
c/o Norton, Lilly & Co., Inc., 90 West Street, New York, New York 10006.

FMC No(s). 2

Shaw Savill & Albion Company Limited, 14–19 Leadenhall Street, London, England.

Norton Lilly & Co., Inc., 90 West Street, New York, New York 10006.

FMC No(s). 4

Shipright, Inc., C.D. Wager, Assistant Director, 2905 South Ridgeland Avenue, Berwyn, Illinois 60402.

FMC No(s). 1

Showa Line, Ltd.
c/o Norton, Lilly & Co., Inc., 425 California Street, San Francisco, California 94104.

FMC No(s). 4

Showa Line, Ltd., 1000 Second Avenue, Seattle, Washington 98104.

FMC No(s). 3

Shun On Shipping Corporation, Jubilee Commercial Building, 11th Floor, 42–46 Gloucester Road, G.P.O. Box 790, Hong Kong.

FMC No(s). 1

Sidmara-Costa Joint Service.
c/o Strachan Shipping Company, American Bank Building, New Orleans, Louisiana 70130.

FMC No(s). 11

Smith Freighting Ltd., Bank of Montreal Building, Post Office Box 866, Georgetown, Grand Cayman, B.W.I.

International Tariff Services, Inc., 815 Fifteenth Street, N.W., Washington, D.C. 20005.

FMC No(s). 1

Sofrana Far East Line, Inc.
c/o Sofrana Unilines, P.O. Box 3614, 42 Customs Street, Auckland, New Zealand.

FMC No(s). 1

South African Marine Corporation (N.Y.), Paul M. Vikan, Tariff Publishing Officer, One Banker's Trust Plaza, New York, New York 10006.

FMC No(s). 7

South Pacific United Lines, Port Vila, New Hebrides.

Transpacific Transportation Company, General Agents, 650 California Street, San Francisco, California 94108.

FMC No(s). 4

South Shipping (Iran) Line, Morton, Lilly & Company, Inc., General Agents, 90 West Street, New York, New York 10006.

FMC No(s). 2

Southern Container Line Corporation, 7220 N.W. 36th Street, Miami, Florida 33166.

FMC No(s). 1

Southern Cross Lines, Gene K. Nakamura, Manager International Traffic, 100 Bush Street, San Francisco, California 94104.

FMC No(s). 1, 2

Star Shipping A/S, H.W. Harrington, Vice President, Star Shipping (U.S.W.C.) Inc., 425 California Street, San Francisco, California 94104.

FMC No(s). 18

Star Shipping A/S, P.O. Box 1088, Bergen, Norway.

Star Shipping (NY) Inc., Agents, 90 West Street, New York, New York 10006.

FMC No(s). 9, 14

States Steamship Company, J.J. McGowen, Issuing Officer, 320 California Street, San Francisco, California.

FMC No(s). 10, 12

States Steamship Company, J.S. Butler, Vice President, 320 California Street, San Francisco, California 94104.

FMC No(s). 30, 31

Steve Goldberg & Co., Inc., Steve Goldberg, President, 5220 W. 104th Street, Los Angeles, California 90045.

FMC No(s). 1

Supreme Ocean Freight Corp., P.O. Box 1, Miami, Florida 33148.

FMC No(s). 1

Surinam Navigation Company, Ltd. (N.V. Scheepvaart Maatschappij Suriname), Hansen & Tidemann, Inc., General Agents, 310 Sanlin Building, 442 Canal Street, New Orleans, Louisiana.

FMC No(s). 2, 4, 5

Swede Line, Swede International Shipping Corp., 36 Sherwood Place, Greenwich, Connecticut 06830.

FMC No(s). 1, 2

Thai Mercantile Marine, Ltd., The Bangkok Bank Building, 6th Floor, P.O. Box 905, 300 Silom Road, Bangkok, Thailand.
c/o E. De Francesco, F.W. Hartmann & Co., Inc., 21 West Street, New York, New York 10006.

FMC No(s). 2, 3, 5, 6, 7, 8, 9, 10, 13, 14, 17, 18, 19, 20

The Canadian City Line, McLean Kennedy Limited, 410 St. Nicholas Street, Montreal, Quebec, Canada.

FMC No(s). 4, 5

The Daiwa Navigation Co., Ltd., Shin-Daiichi Building, 4–13 Nihonbashi, 3—Chome, Chuo-ku, Tokyo, Japan.

FMC No(s). 9

The International Shipping Company, Olivier de Chillaz, President, 2202 N. Pickett Street, Suite 104, Alexandria, Virginia 22304.

FMC No(s). 1

The Paulrich Corporation of Panama S.A., Adventure Associates, Inc., General Agents, 1110 N.W. 19th Avenue, Miami, Florida 33125.

FMC No(s). 2, 3

The Paulrich Corporation of Panama S.A., Cacena Corporation, General Agents, 6501 Northwest 36th Street, Miami, Florida 33166.

FMC No(s). 1

The Paulrich Trader of Panama S.A., K–C Lines Inc., General Agents, 1100 N.W. 19th Avenue, Miami, Florida 33125.

FMC No(s). 1

The Scindia Steam Navigation Co., Ltd.,
c/o Western Steamship Co., Ltd., 400 California Street, San Francisco, California 94104.

FMC No(s). 58

The Shipping Corporation of New Zealand Limited, Pastoral House, Lambton Quay, P.O. Box 3344, Wellington, New Zealand.

FMC No(s). 1

Thru-Container Corporation, 55 Goodrich Street, Staten Island, New York 10303.

FMC No(s). 3, 4

Tiger Lines.
c/o M. A. Tenorio, United Micronesia Development Association, P.O. Box 238, Saipan, Mariana Islands 96950.

FMC No(s). 3

Tisa Line.
c/o/ Lorentzen Shipping Agency, Inc., 2125 Biscayne Blvd., Miami, Florida 33137.

FMC No(s). 1

Tokyo Senpaku Kaisha, Ltd., Matson Agencies, Inc., as Agents, 100 Mission Street, San Francisco, California 94105.

FMC No(s). 1

Torm Lines, Kerr Streamship Company, Inc., General Agents, One Shell Square, New Orleans, Louisiana 70139.

FMC No(s). 13, 14

Tracey Navigation Co., Ltd., Georgetown, Grand Cayman.

Lone Star Shipping, Inc., U.S. General Agents, 2100 Melrose Building, 1121 Walker Street, Houston, Texas 77002.

FMC No(s). 1

Traffic Routing International (U.S.) Inc., Chaim Neumonn, President, 9399 Wilshire Blvd., Beverly Hills, California 90210.

FMC No(s). 1

Trailer Container Line.
c/o International Tariff Services, Inc., 815 Fifteenth Street, N.W., Washington, D.C. 20005.

FMC No(s). 1, 2, 3

Trans Arabian Transport Services, Inc., Edward J. Keane, President, 40 Rector Street, New York, New York 10006.

FMC No(s). 1

Trans Caribbean Lines, Inc., 3301 N.W. South River Drive, Miami, Florida 33142.

FMC No(s). 5, 6, 7, 8

Trans Ocean Lines, Mr. Frank Hu, President, Trans Ocean Maritime Corp., Inc., 666 East Ocean Blvd., Suite 1180, Long Beach, California 90802.

FMC No(s). 1

Transmar, S.A., Conde 301, Santo Domingo, R.D.

International Tariff Services, Inc., 815 Fifteenth Street, N.W., Washington, D.C. 20005.

FMC No(s). 1

Transmodal Cargoes, Inc., Fred L. Gohlke, 1179½ Roosevelt Avenue, Carteret, New Jersey 07008.

FMC No(s). 4

Transoceanic Navigation Company, 160 Franklin, Oakland, California.

FMC No(s). 2

Transportacion Maritima Hondurena, S.A. De C.V. (T.M.H. Line), Puerto Cortes, Honduras, Central America.

"K" Line-Kerr Corporation, Issuing Agents, 90 Washington Street, New York, New York 10006.

FMC No(s). 1, 2

Transversal International Corporation.
c/o International Tariff Services, Inc., 815 Fifteenth Street, N.W., Suite 538, Washington, D.C. 20005.

FMC No(s). 1

Trindos Freight Consolidators, 7210 North West 32nd Street, Miami, Florida 33166.

FMC No(s). 1, 2

Trisa Line.
c/o International Tariff Services, Inc., 815 Fifteenth Street, N.W., Washington, D.C. 20005.

FMC No(s). 2, 3, 4

Troll Carriers, Bank of Bermuda Building, Hamilton Bermuda.

Chase, Leavitt & Co., 10 Dana Street, Portland, Maine 04112.

FMC No(s). 3

Tropic Isle Shipping Ltd. (Grand Cayman, B.W.I.).
c/o CACENA Corporation, 65–01 N.W. 36th Street, Suite 175, Miami, Florida 33166.

FMC No(s). 1

Tropical Shipping and Construction Co., Ltd.

c/o Container Terminals, Ltd., P.O. Box-N 8138, Nassau, Bahamas.
c/o Birdsall Inc., 821 Avenue "E", Riviera Beach, Florida 33404.

FMC No(s). 12, 15

Tropwood A.G., Zug, Switzerland.

International Tariff Services, Inc., 815 15th Street, N.W., Suite 538, Washington, D.C. 20005.

FMC No(s). 1, 3, 4, 5, 7, 8

Trust Territory of the Pacific Islands, Saipan, Mariana Islands 96950.

FMC No(s). 1

Twin Express International Inc., Frank Arevalo, President, P.O. Box 2294 A.M.F., Miami, Florida 33159.

FMC No(s). 2

Uiterwyk Lines (Far East), Uiterwyk Lines (Far East) Ltd., 50 Shirley Street, Nassau, Bahamas.

Jan C. Uiterwyk Company, Inc., General Agents, 3105 West Waters Avenue, Tampa, Florida 33614.

FMC No(s). 6

Unimodal Inc., 115 Sansome Street, San Francisco, California 94104.

FMC No(s). 6

Union Gulf Marine Co., S.A., 15, Sec. 1, Chung-Shan North Road, Taipei, Taiwan, Republic of China.

Teh Tung Steamship (New York), Inc., 32 Broadway, Suite 808, New York, New York 10004.

FMC No(s). 1

United Container Service, Inc., Third Floor, 99 Chan Chun Road, Taipei, Taiwan, Republic of China.

C. E. Simmons, Issuing Agent, 1100 Norton Building, Seattle, Washington 98104.

FMC No(s). 1

United Container Service, Inc., 99 Chang Chun Road, 3rd Floor, Taipei, Taiwan.

John Watkins, Chairman, International American Enterprise, 375 Park Avenue, Suite 2801, New York, New York 10022.

FMC No(s). 2

United Enterprises Co., Ltd., Room No. 502, Kyodo Bldg. 4–21, Yaesu 1–Chome, Chuo-Ku, Tokyo, Japan.

Transportation Tariff Publishers, 2311 University Blvd. W., Wheaton, Maryland 20902.

FMC No(s). 3

United Intermodal Line, 15–19 Ha Heung Road, Ground Floor, Tokwawan, Kowloon, Hong Kong, B.C.C.

Peter Gilbert, Western Navigation Corp., 545 Sansome Street, San Francisco, California 94111.

FMC No(s). 11, 12, 13, 14

United Intermodal Line 5 Austin Avenue, Ground Floor—Tsimshatsui, Kowloon, Hong Kong, B.C.C.

G. R. Morrell, Pacific Intermodal Corp., 545 Sansome Street, San Francisco, California.

FMC No(s). 3

United States Lines, Inc., F. G. Engel, Tariff Publishing Officer, One Broadway, New York, New York 10004.

FMC No(s). 88, 107

United States Lines, Inc., J. McMorrow, Issuing Officer, One Broadway, New York, New York 10004.

FMC No(s). 53, 68, 99, 105

Universal Alco Limited, Russell McCain, President, 760 N.E. 7th Avenue, Dania, Florida 33004.

FMC No(s). 1

Vaasa Line, Vaasa Line OY, Arkadiankatu Zia, Helsinki 10, Finland.

William, Dimond & Co., 215 Market Street, San Francisco, California 94105.

FMC No(s). 7

Valmar De Navegacion, S.A., P.O. Box 4204, Guayaquil, Ecuador.

FMC No(s). 2

Venebuques, C.A., Veneqolana de Buques Venebugues, C.A., Parque Humboldt-Edificio "La Piramide" P.H., Prados del Este-Apartado 6237, Caracas, Venezuela.

FMC No(s). 2

Venexpress Ltd., Grand Cayman, B.W.I.

Cacena Corporation, General Agents, 51 South Lejeune Road, Coral Gables, Florida 33134.

FMC No(s). 1

Victoria Line, Victoria Caribbean Shipping Line, P.O. Box 343, Port-au-Prince, Haiti.
c/o Maurice Denis, 400 S.W. First Avenue, Miami, Florida 33130.

FMC No(s). 1

Viking Contracting Company, Ltd., Boulder Shipping, Ltd., 67 Broad Street, New York, New York 10004.

FMC No(s). 1

W. A. Bowman Associates, Inc., 534 Boston Post Road, Suite 202, Milford, Connecticut 06460.

FMC No(s). 1

Windward Steamships, Ltd., 750 N.E. 7th Avenue, Dania, Florida 33004.

FMC No(s). 1

Wolfsburger Transport—Gesellschaft mbH, 3180 Wolfsburg–1, West Germany.

Herzfeld & Rubin, P.C., 40 Wall Street, New York, New York 10005.

FMC No(s). 1

Wonder System, Inc., 17 Battery Place, Suite 2222, New York, New York 10004.

FMC No(s). 1, 2, 3

World Shipping Ltd., c/o World Shipping Agencies, Inc., 750 N.E. 7th Avenue, Dania, Florida 33004.

FMC No(s). 1

World Trade Forwarding Co., Inc., Jose S. Lopez, President, 217 World Trade Building, Houston, Texas 77002.

FMC No(s). 1

Yellow Freight International, J. E. McNamara, Traffic Manager, Yellow Forwarding Co., P.O. Box 490, St. Louis, Missouri 63166.

FMC No(s). 27

Zim Container Service, One World Trade Center, Suite 2969, New York, New York 10048.

FMC No(s). 19, 20

Zim Israel Navigation Co., Ltd., John C. Gibson, Mgr., Domestic Rates, One World Trade Center, Suite 2969, New York, New York 10048.

FMC No(s). 36

Zim Israel Navigation Co., Ltd., Victor Alchen, Mgr., Domestic Rates, One World Trade Center-Suite 2969, New York, New York 10048.

FMC No(s). 35

[FR Doc. 79-35720 Filed 11-19-79; 8:45 am]
BILLING CODE 6730-01-M

Italian Line Cruises International; Order of Revocation

Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation Nos. P–18 and P–176 and Certificate of Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages Nos. C–1,028 and C–1,172.

Whereas, Italia Crociere Internazionali S.p.A. and "Italia" Di Navigazione S.p.A. (Italian Line) have ceased to operate the passenger vessel LEONARDO DA VINCI to and from United States ports;

It is ordered, that Certificate (Performance) No. P–18 and Certificate (Casualty) No. C–1,028 issued to "Italia" Societa' Per Azioni Di Navigazione and Certificate (Performance) No. P–176 and Certificate (Casualty) No. C–1,172 issued to Italia Crociere Internazionali S.p.A. and "Italia" Societa' Per Azioni Di Navigazione ("Italia" Di Navigazione S.p.A.) covering the Leonardo da Vinci, be and are hereby revoked effective November 9, 1979.

It is Futher Ordered, that a copy of this Order be published in the Federal Register and served on certificants.

By the Commission, November 9, 1979.

Francis C. Hurney,

Secretary.

[FR Doc. 79-35719 Filed 11-19-79; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

Open Committee Meetings

Pursuant to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee

will be held on Tuesday, December 11, 1979 and Thursday, December 13, 1979.

The meetings will convene at 10 a.m., and wil be held in Room 5A06A, Office of Personnel Management Building, 1900 E Street, NW., Washington, D.C.

The Federal Prevailing Rate Advisory Committee is composed of a Chairman, representatives of five labor unions holding exclusive bargaining rights for Federal blue-collar employees, and representatives of five Federal agencies. Entitlement to membership of the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the prevailing rate system and other matters pertinent to the establishment of prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnel Management thereon.

These scheduled meetings will convene in open session with both labor and management representatives attending. During the meeting either the labor members or the management members may caucus separately with the Chairman to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would impair to an unacceptable degree the ability of the Committee to reach a consensus on the matters being considered and disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public on the basis of a determination made by the Director of the Office of Personnel Management under the provisions of Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463) and 5 U.S.C., section 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of the meeting.

Annually, the Committee publishes for the Office of Personnel Management, the President, and Congress a comprehensive report of pay issues discussed, concluded recommendations thereon, and related activities. These reports are also available to the public, upon written request to the Committee Secretary.

Members of the public are invited to submit material in writing to the Chairman concerning Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information concerning these meetings may be obtained by contacting the Secretary, Federal Prevailing Rate Advisory Committee, Room 1340, 1900 E Street, NW., Washington, D.C. 20415 (202–632–9710).

Jerome H. Ross,

Chairman, Federal Prevailing Rate Advisory Committee.

November 8, 1979.

[FR Doc. 35790 Filed 11–19–79; 8:45 am]

BILLING CODE 6325–01–M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage in *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than December 7, 1979.

A. *Federal Reserve Bank of Richmond,* 701 East Byrd Street, Richmond, Virginia 23261:

Southern Bancorporation Inc., Greenville, South Carolina (finance and insurance activities; Georgia): To engage, through its subsidiary, World Acceptance Corporation, in making extensions of credit as consumer finance lenders; and acting as agent for the sale of credit property insurance, and credit-related life, accident and disability insurance issued directly in connection with the above-mentioned extensions of credit. These activities will be conducted from offices in Moultrie and Tifton, Georgia, serving those cities.

B. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, November 14, 1979.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 79–35697 Filed 11–19–79; 8:45 am]

BILLING CODE 6210–01–M

Childress Bancshares, Inc.; Formation of Banking Holding Company

Childress Bancshares, Inc., Childress, Texas, has applied for the Board's approval under section 3 (a) (1) of the Bank Holding Company Act (12 U.S.C. 1842 (a) (1)) to become a bank holding company by acquiring 95 per cent or more of the voting shares of First National Bank in Childress, Childress, Texas. The factors that are considered in acting on the application are set forth in section 3 (c) of the Act (12 U.S.C. 1842 (c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 11, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 14, 1979.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 79–35698 Filed 11–19–79; 8:45 am]

BILLING CODE 6210–01–M

Falmouth Bancorporation; Formation of Bank Holding Company

Falmouth Bancorporation, Falmouth, Kentucky, has applied for the Board's approval under section 3(a) (1) of the Bank Holding Company Act (12 U.S.C. 1842 (a) (1)) to become a bank holding company by acquiring 100 per cent (less directors' qualifying shares) of the voting shares of The Falmouth Deposit Bank, Falmouth, Kentucky. The factors that are considered in acting on the

application are set forth in section 3 (c) of the Act (12 U.S.C. 1842 (c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Cleveland. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 13, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 14, 1979.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 79-35699 Filed 11-19-79; 8:45 am]

BILLING CODE 6210-01-M

Marshall-Putnam County Bancorporation, Inc.; Formation of Bank Holding Company

Marshall-Putnam County Bancorporation, Inc., Varna, Illinois, has applied for the Board's approval under 3 (a) (1) of the Bank Holding Company Act (12 U.S.C. 1842 (a) (1)) to become a bank holding company by acquiring 86.0 per cent or more of the voting shares of Marshall County State Bank, Varna, Illinois. The factors that are considered in acting on the application are set forth in section 3 (c) of the Act (12 U.S.C. 1842 (c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 7, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 14, 1979.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 79-35700 Filed 11-19-79; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Central Louisiana Energy Corp.; Early Termination of the Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the 30-day waiting period of the premerger notification rules.

SUMMARY: Central Louisiana Energy Corporation is granted early termination of the 30-day waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of certain assets of Farmland Industries, Inc. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by Central Louisiana Energy Corporation. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: November 7, 1979.

FOR FURTHER INFORMATION CONTACT: Joan S. Truitt, Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202-523-3894).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by section 201 and 202 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 79-35702 Filed 11-19-79; 8:45 am]

BILLING CODE 6750-01-M

Corroon & Black Corp.; Early Termination of the Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the 30-day waiting period of the premerger notification rules.

SUMMARY: Corroon & Black Corporation is granted early termination of the 30-day waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of certain voting securities of Minet Holdings Limited. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by Corroon & Black Corporation. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: November 7, 1979.

FOR FURTHER INFORMATION CONTACT: Joan S. Truitt, Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580, (202-523-3894).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by sections 201 and 202 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 79-35701 Filed 11-19-79; 8:45 am]

BILLING CODE 6750-01-M

GENERAL SERVICES ADMINISTRATION

Public Buildings Service

Rehabilitation Project and Disposition of Excess Property, Vista Del Arroyo, Pasadena, Calif.; Scoping Meeting

As part of the environmental review process required by the Council on Environmental Quality regulations, the General Services Administration (GSA) will conduct a scoping meeting to discuss the future use of the former Pasadena resort known as Vista del Arroyo. The agenda will include the future Federal use of the property's main 7-story hotel building; potential uses for the balance of the historic 10.5 acre complex; and the identification of potential environmental effects resulting from Federal actions. GSA plans to rehabilitate and adapt the main building for use by the U.S. Court of Appeals and various Federal agencies currently

located elsewhere in Pasadena. The property not needed by GSA will be reported excess. Eventual disposition has yet to be decided. All development or transfer of the property will be administered according to Federal historic preservation policy and regulations (36 CFR 800).

Two public scoping meetings will be held on November 28, 1979, at the Council Chambers, Room 220, City Hall, 100 North Garfield Avenue, Pasadena, California. The first meeting will be from 1:30 to 4:30 p.m.; the second will be from 6:00 to 9:00 p.m. The meeting agenda includes a description of the proposed Federal action, the history of the property, and Federal regulations relating to environmental review, historic preservation, and property disposal. Interested parties are invited to present their ideas and concerns. Work shops will be established to explore the specific issues relating to the proposed action.

Questions or communication concerning the proposed action or the scoping meeting may be directed to Mr. Gerry MacClelland, Regional Historic Preservation Officer, GSA, 525 Market Street (Mail Station 30A), San Francisco, CA 94105. His phone number is (415) 556–2532.

Joseph B. Williams,

Regional Administrator.

[FR Doc. 79–35639 Filed 11–19–79; 8:45 am]

BILLING CODE 6820–23–M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

Minority Advisory Committee; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National advisory body scheduled to assemble during the month of December 1979.

Minority Advisory Committee, ADAMHA: December 3–5, 9:00 a.m.—open meeting. December 3, Room 17–09B, Parklawn Building, December 4, Conference Room J, Parklawn Building, December 5, Room 17–09B, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Contact Ernest F. Hurst, Room 13C–15, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3838.

Purpose: The Minority Advisory Committee, ADAMHA advises the Secretary of Health, Education, and Welfare, and the Administrator, Alcohol, Drug Abuse, and Mental Health Administration on needs, programs, and activities regarding minority alcohol, drug abuse, and mental health matters, and make recommendations for possible solutions which meet the needs and concerns of minority groups throughout the United States. The Committee functions in an advisory capacity to the Administrator, ADAMHA, on these matters which relate to the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse, and the National Institute of Mental Health.

Agenda: On December 3, agenda items include discussion of the status of recommendations of the Second National Conference on Minority Group Alcohol, Drug Abuse, and Mental Health Issues, discussion of Phase II of the Racial Minority Manpower Development and Training Report, the Asian American Consultation meeting, and special reports from Committee members. The remainder of the meeting will include meetings with the Administrator and Institute Directors, the work plan for fiscal years 1980 and 1981, and a review of the legislative process. Agenda items are subject to change as priorities dictate.

This Notice is late because of uncertainty of discussion items and the Federal official was unable to reach the chairperson for confirmation of selected agenda items.

Mr. James C. Helsing, Deputy Director, Office of Public Affairs, ADAMHA, will furnish on request, summaries of the meeting and a roster of the Committee members. Mr. Helsing is located in Room 6C–15, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3783.

Dated: November 14, 1979.

Elizabeth A. Connolly,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 79–35640 Filed 11–19–79; 8:45 am]

BILLING CODE 4110–88–M

Center for Disease Control

Cytopathology Study Group and Working Group for Second International Conference on Nosocomial Infections; Open Meeting

The following meetings will be convened by the Center for Disease Control (CDC) and will be open to the public for observation and participation, limited only by the space available:

Cytopathology Study Group

Date: November 29–30,1979.
Time: 9:00 a.m.

Place: November 29: Seville Room, Sheraton-Emory Inn, 1641 Clifton Road, NE., Atlanta, Georgia 30333; November 30: Classroom 2, Building 2, CDC, 1600 Clifton Road, NE., Atlanta, Georgia 30333.

Purpose: To discuss the final report of the Professional Examination Service on the comparative study of written-visual and slide practical testing measures in cytopathology.

Additional information may be obtained from: Ms. A. Elizabeth Plott, Chief Cytotechnologist, Pathology Division, Bureau of Laboratories, CDC, Building 1, Room 2301, 1600 Clifton Road, NE., Atlanta, Georgia 30333. Telephones: Commercial: 404/329–3135; FTS: 236–3135.

Working Group for Second International Conference on Nosocomial Infections

Date: December 3, 1979.
Time: 8:30 a.m.
Place: Room B–19, Building 3, CDC, 1600 Clifton Road, NE., Atlanta, Georgia 30333.

Purpose: To discuss the preliminary agenda for the Second International Conference on Nosocomial Infections, which will be held August 5–8, 1980.

Additional information may be obtained from: Richard E. Dixon, M.D., Chief, Hospital Infections Branch, Bacterial Diseases Division, Bureau of Epidemiology, CDC, Building 1, Room 5067, 1600 Clifton Road, NE., Atlanta, Georgia 30333. Telephones: Commercial: 404/329–3408; FTS: 236–3408.

Dated: November 15, 1979.

William C. Watson, Jr.,

Acting Director, Center for Disease Control.

[FR Doc. 79–35900 Filed 11–19–79; 8:45 am]

BILLING CODE 4110–86–M

Food and Drug Administration

Pulmonary-Allergy Drugs Advisory Committee; Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meeting is announced:

Committee name	Date, time, and place	Type of meeting and contact person
Pulmonary-Allergy Drugs Advisory Committee.	December 6 and 7, 9 a.m., Conference room F, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing December 6, 9:30 a.m. to 10:30 a.m.; open committee discussion December 6, 10:30 a.m. to 4:30 p.m., December 7, 9:30 a.m. to 11:30 a.m.; closed committee deliberations December 7, 1 p.m. to 3 p.m.; Conrad J. Ledet (HFD-160), 5600 Fishers Lane, Rockville, MD 20857, 301-443-3500.

General function of the Committee. The Committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in treating pulmonary disease and diseases with allergic and/or immunologic mechanisms.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee.

Open committee discussion. The Committee will discuss the action report on Temaril/Tacaryl, Beta$_2$ agonists, and Vanceril; theophylline-ephedrine combinations; bronchodilator testing guidelines; medicinal gases; Beta$_2$ agonists (benefit/risk assessment); Brethine/Theophylline combinations; Vanceril for croup; and freon carcinogenicity.

Closed committee deliberations. The Committee will discuss investigational new drugs (IND's) 10,570, 11,151, 11,258, and 13,871 (Upjohn); IND 14,295 (Cooper Labs); and IND 14,918 (USV Pharmaceutical). These involve discussing preclinical and clinical data submitted in support of Notices of Claimed Investigational Exemption for New Drugs. This information is confidential under 21 CFR 312.5, and this portion of the meeting will be closed to permit discussion of trade secret data (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be obtained from the Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, MD 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94-409), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisor committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency doucments, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

Dated: November 9, 1979.

Jere E. Goyan

Commissioner of Food and Drugs.

[FR Doc. 79-35512 Filed 11-19-79; 8:45 am]

BILLING CODE 4110-03-M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document announces a forthcoming Consumer Exchange Meeting to be chaired by the Commissioner of Food and Drugs.

DATE: The meeting will be held at 1 p.m., Wednesday, November 28, 1979.

ADDRESS: The meeting will be held at the HEW North Building, Rm. 5051, 330 Independence Ave., SW, Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Alexander Grant, Special Assistant to the Commissioner for Consumer Affairs (HF-7), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rm. 16-85, Rockville, MD 20857, 301-443-5006.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to exchange information between FDA officials and consumer representatives by providing an opportunity for consumer representatives to present their views directly to the Commissioner and to the top managers of FDA, by seeking solutions to any problems agreed on during this communication, and by giving the agency an opportunity to discuss and communicate vital health and policy issues to the concerned public. The major agenda item for discussion will be drug regulation reform.

Dated: November 13, 1979.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-35511 Filed 11-19-79; 8:45 am]

BILLING CODE 4110-03-M

Public Advisory Committees; Request for Nominations for Voting Members

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document requests nominations for voting members to serve on certain public advisory committees of the Bureau of Drugs. This request pertains only to those committees that deal with prescription drug products as distinct from those FDA advisory committees that review nonprescription (over-the-counter) drugs and medical devices. Because of issues to be addressed, it is FDA policy that all members of these prescription drug advisory committees are voting members. Nominations will be accepted for vacancies that now exist and vacancies that will or may occur on the committees during the next 12 months.

DATES: Since scheduled vacancies occur on various dates throughout each year, no cutoff date is established for receipt of nominations. However, nominations should be received at least 90 days before the dates of scheduled vacancies for each year, as indicated in the list of the advisory committees given in this notice.

ADDRESS: All nominations for voting members of the respective advisory committees must be sent to: Joseph Price, Bureau of Drugs (HFD-22), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857.

SUPPLEMENTARY INFORMATION: The Food and Drug Administration requests nominations for voting members for the following 13 advisory committees:

1. Anesthetic and Life Support Drugs Advisory Committee: five vacancies on June 30, 1980.
2. Anti-Infective and Topical Drugs Advisory Committee: three vacancies on December 31, 1979.
3. Arthritis Advisory Committee: one vacancy on September 30, 1980.
4. Cardiovascular and Renal Drugs Advisory Committee: one vacancy on June 30, 1980.
5. Endocrinologic and Metabolic Drugs Advisory Committee: two vacancies on June 30, 1980.
6. Fertility and Maternal Health Drugs Advisory Committee: three vacancies on June 30, 1980.
7. Gastrointestinal Drugs Advisory Committee: two vacancies on June 30, 1980.
8. Oncologic Drugs Advisory Committee: two vacancies on June 30, 1980.
9. Peripheral and Central Nervous System Drugs Advisory Committee: two vacancies on January 31, 1980.
10. Psychopharmacologic Drugs Advisory Committee: four vacancies on June 30, 1980.
11. Pulmonary-Allergy Drugs Advisory Committee: three vacancies on June 30, 1980.
12. Radiopharmaceutical Drugs Advisory Committee: three vacancies on June 30, 1980.

The functions of the 12 committees listed above are to review and evaluate available data concerning the safety and effectiveness of marketed and investigational prescription drugs for use in the area of the medical specialties indicated by the title of the committee, and to make appropriate recommendations to the Commissioner of Food and Drugs.

13. Drug Abuse Advisory Committee: four vacancies on June 30, 1980.

The functions of the Drug Abuse Advisory Committee are to: (1) Advise the Commissioner regarding the scientific and medical evaluation of all information gathered by both the Department of Health, Education, and Welfare (HEW) and the Department of Justice regarding the safety, efficacy, and abuse potential for drugs or other substances and (2) recommend actions to be taken by HEW regarding the marketing, investigation, and control of such drugs or other substances.

Persons nominated for membership on the above-named committees must have adequately diversified experience appropriate to the work of the committee in such fields as infectious disease, internal medicine, microbiology, psychiatry, neurology, obstetrics and gynecology, surgery, ophthalmology, anesthesiology, nuclear medicine, epidemiology, statistics, or other appropriate areas of expertise. The specialized training and experience necessary to qualify the nominee as an expert suitable for appointment is subject to review, but may include experience in medical practice, teaching, and/or research relevant to the field of activity of the committee. The term of office is normally 4 years.

In recent months, concerns have been expressed about the need for ensuring "balanced advocacy" in decisionmaking at the Federal level; these concerns have been expressed by Congress and also in the report by the Commissioner of Food and Drugs to the Secretary of the Department of Health, Education, and Welfare on findings and recommendations of the Review Panel on New Drug Regulation. Additionally, an expanded concept of risk/benefit judgments has evolved in scientific, public and government circles from one of purely scientific assessment to one that also incorporates global value judgments.

Accordingly, through this announcement, the Commissioner intends to broaden the field from which potential members of these committees may be chosen to provide a wide range of viewpoints on issues addressed by the committees. Specifically, in addition to nominations from scientific and professional organizations, the Commissioner seeks nominations of well-qualified individuals by consumer-oriented and public interest groups. Because of the technical work performed by the committees, emphasis will be on scientific background that permits in-depth review and critical analysis of clinical data in investigational new drug applications and of new drug applications submitted to obtain marketing approval of drugs. However, for certain committees, for example, the Fertility and Maternal Health Drugs Advisory Committee, the classical background needed for review of clinical data in investigational and new drug applications may be supplied by other experience or specialized knowledge that would be of value to the work of the committee. Because the Fertility and Maternal Health Drugs Advisory Committee deals with the optional use of drugs (such as oral contraceptives, medicated intrauterine devices, drugs used for analgesia in obstetrical labor, as well as drugs used for voluntary termination of pregnancy), experience in consumer concerns relating to the possible effects of these drugs on women and fetuses is considered to be qualifying in that it

would contribute to the work of the committee.

Such qualified persons nominated by consumer-oriented and public interest groups will, if appointed, be voting members of the above-designated advisory committees. Additionally, the FDA Office of Consumer Affairs will provide such qualified persons with brief training to facilitate effective participation in the advisory committee process and with appropriate guidance to ensure effective liaison with public interest groups concerned with issues addressed by the committees on which they serve.

Any interested person may nominate one or more qualified persons for membership on one or more of the advisory committees. Nominations shall specify the committee for which the nominee is recommended. Nominations shall state that the nominee is aware of the nomination, is willing to serve as a member of the advisory committee, and appears to have no conflict of interest that would preclude committee membership. Potential candidates will be asked by FDA to provide detailed information concerning such matters as financial holdings, consultancies, and research grants or contracts in order to permit evaluation of possible sources of conflict of interest.

FDA has a special interest in assuring that women and minority groups are adequately represented on advisory committees and therefore extends particular encouragement to nominations for appropriately qualified female and minority candidates.

Final selection from among qualified candidates for each vacancy will be determined by the expertise required to meet specific agency needs and in a manner to ensure appropriate balance of membership.

This notice is issued under the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)) and 21 CFR Part 14 relating to advisory committees.

Dated: November 9, 1979.

Jere E. Goyan,

Commissioner of Food and Drugs.

[FR Doc. 79-35510 Filed 11-19-79; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 77P-0275]

Tomato Juice Deviating From Identity Standard; Extension and Amendment of Temporary Permit for Market Testing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces the amendment and extension of a temporary permit issued to Borden, Inc., to market test tomato juice from concentrate. This action will enable Borden, Inc., to market test tomato juice from concentrate. This action will enable Borden, Inc., to initiate its experimental market testing survey.

DATES: This amended permit is effective November 16, 1979 and shall terminate either on the effective date of an affirmative order ruling on the FDA proposal to amend the identity standard for tomato juice, which was published in the Federal Register of May 9, 1978 (43 FR 19864), or 30 days after a negative order ruling on the proposal, whichever the case may be.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Bureau of Foods (HFF–414), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202–245–1164.

SUPPLEMENTARY INFORMATION: The original permit was issued to Borden, Inc., under § 130.17 (21 CFR 130.17), concerning temporary permits to facilitate market testing of foods deviating from the requirements of the standard of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341). Notice of the issuance of the permit was published in the Federal Register of November 18, 1977 (42 FR 59554). The permit covered limited interstate marketing tests of tomato juice from concentrate that deviated from the standard of identity prescribed for tomato juice under § 156.145 (21 CFR 156.145). The test product is prepared by adding water to concentrated tomato liquid complying with the tomato paste requirements of § 155.191(a)(1) (21 CFR 155.191(a)(1)). The finished product contains not less than 5.5 percent by weight of tomato soluble solids, which is equivalent to a single-strength tomato juice normally found in the marketplace. In addition, ascorbic acid is added to attan a vitamin C level of 3.5 milligrams per fluid ounce.

The principal display panel of the label will state the product name as "tomato juice from concentrate". Wherever the name appears on the label the words "from concentrate" will appear in letters not less than one-half the size of those used for the words "tomato juice". Each of the ingredients used will be stated on the label as required by the applicable sections of Part 101 (21 CFR Part 101), except that the tomato ingredient complying with the requirements of § 155.191(a)(1) will be declared as "tomato concentrate".

The original permit provided for the market testing of a total of 80,000 cases of twelve 46-ounce cans of the product to be distributed in the States of Arizona, Colorado, Indiana, Nebraska, New York, and Pennsylvania. Borden, Inc., stated that, owing to economic and other conditions, it has not marketed any tomato juice from concentrate in accordance with the temporary permit referred to above.

Borden, Inc., now has requested that its original temporary permit be extended and amended to provide market testing on a monthly basis of 50,000 cases of twelve 46-ounce cans, 12,500 cases of twenty-four 12-ounce cans, 35,000 cases of forth-eight 5.5-ounce cans, and 15,000 cases of twelve 32-ounce bottles in the States of Alabama, Arizona, Colorado, Connecticut, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, and Virginia and in the District of Columbia.

Borden, Inc., has requested that its temporary permit be extended for the duration of the administrative proceedings pertaining to the proposal to amend the standard of identity for tomato juice published in the Federal Register of May 9, 1978 (43 FR 19864). The proposed amendment would, among other things, (1) permit the use of concentrated tomato juice to prepare a single-strength tomato juice product, (2) require the name "tomato juice from concentrate" when concentrated tomato juice is used in the preparation of the canned juice, (3) establish in the identity standard a minimum tomato soluble solids requirement of 5.5 percent, by weight, for the product made from concentrate, and (4) require label declaration of all optional ingredients.

FDA concludes that it will be in the interest of consumers to extend the time period of the temporary permit and to permit market testing on a monthly basis of 50,000 cases of twelve 46-ounce cans, 12,500 cases of twenty-four 12-ounce cans, 35,000 cases of forty-eight 5.5-ounce cans, and 15,000 cases of twelve 32-ounce bottles in the States of Alabama, Arizona, Colorado, Connecticut, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, and Virginia and in the District of Columbia.

Under § 130.17, all interested persons may participate in the market tests under the conditions that apply to Borden, Inc., including the labeling requirements and the amounts to be distributed. The designated areas of distribution do not apply to such interested persons. Any interested person who elects to participate in the extended market test shall notify FDA in writing of that fact, the amount to be distributed, and the area of distribution, and shall submit, along with this notification, the labeling under which the food is to be distributed.

This permit extension, as issued to Borden, Inc., and such others who participate in accordance with the provisions set forth in this notice, is effective on November 20, 1979 and expires either on the effective date of an affirmative order ruling on the FDA proposal of May 9, 1978, or 30 days after a negative order ruling on the proposal, whichever the case may be.

Dated: November 13, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-35509 Filed 11-19-79; 8:45 am]

BILLING CODE 4110-03-M

Office of Human Development Services

Administration for Public Services; Statement of Organization, Functions, and Delegations of Authority

This notice amends Part D (Office of Human Development Services), Chapter DS (Administration for Public Services) (43 FR 33339-41, July 31, 1978) by effecting the following organizational and functional statement changes:

(1) Transferring responsibility for formula grants management policies, administrative accounting and reprogramming of formula grant funds from the Division of Financial Management, Office of Program Operations, to the Office of Administration and Management;

(2) Transferring responsibility for equal opportunity and assuring adherence to requirements relating to nondiscrimination in APS S&E contracts from the Office of Administration and Management to the Division of Intergovernmental Planning and Coordination, Office of Program Development;

(3) Adding responsibility for activities related to the reduction of fraud, abuse and error in Title XX to the Division of Financial Management; and

(4) Abolishing the Office of Public Information and transferring its function to the OHDS Office of Public Affairs except for the responsibility for receiving and coordinating responses to Freedom of Information requests which transfers to the Executive Secretariat.

The revised statement for Administration for Public Services reads as follows:

DS.00 Mission. The Administration for Public Services (APS). Provides national leadership to States in the planning, development, management, coordination, and delivery of social services programs authorized under Title I, IV-A, X, XIV, XVI (AABD) and XX of the Social Security Act. Provides leadership in the development, design and evaluation of Comprehensive Annual Services Plans, which reflect the special needs of low-income and disadvantaged populations, including recipients of Aid to Families with Dependent Children, Medicaid and Supplemental Security Income. Establishes program objectives, standards, policies and guidelines to promote the goals of Title XX among eligible low income populations. Develops policies and guidelines to assure adherence to Federal requirements. Provides guidance to States in the development and operation of State and local training programs. Promotes and funds research and demonstration projects to develop more effective approaches and methods for the management and delivery of social services. Conducts and funds studies to evaluate the extent to which social service programs meet the goals specified in the Title XX Act. Provides administrative support services to the staff assigned to the Work Incentive Program, which is jointly administered by the Department of Labor and HEW. Consults with other Federal agencies in the development of policies and programs which promote the achievement of social services program goals. In conjunction with the Department of Labor, develops plans for increasing the coordination of social services programs with employment programs such as CETA and the WIN program. Coordinates rural development initiatives within HEW and assists the Department of Agriculture in carrying out Section 603(b) of the Rural Development Act of 1972. Provides leadership and professional consultation to Regional Office staff and assists States, local units of government, private agencies and organizations, and public interest groups in the identification of services needs, the planning and utilization of resources, the management and the methods for improving service delivery systems, manpower development and management of training programs, and promotion and management of research and demonstration projects.

DS.10 Organization. The Administration for Public Services is headed by a Commissioner who reports directly to the Assistant Secretary for Human Development Services and consists of:

Office of the Commissioner (DS)
  Regional Liaison Staff (DS-1)
Office of Administration and Management (DSB)
Office of Policy Control (DSK)
Executive Secretariat (DSG)
Office of Program Operations (DSH)
  Division of Program Management (DSH1)
  Division of Financial Management (DSH2)
Office of Program Development (DSJ)
  Division of Intergovernmental Planning and Coordination (DSJ1)
  Division of Research, Demonstration, and Evaluation (DSJ2)
  Division of Program Planning and Analysis (DSJ3)

DS.20 Functions. A. Office of the Commissioner (DS) provides executive leadership and policy direction to APS in the administration of its responsibilities. Serves as the principal advisor to the Assistant Secretary for Human Development Services on the policies, planning, development, and coordination of social services programs. Maintains relationships with HDS officials and other Federal Agency officials to coordinate APS policies and activities. The Deputy Commissioner acts as the Commissioner in his absence.

1. regional Liaison Staff (DS-1) provides advice to the Commissioner and appropriate operational units on the implementation of special initiatives and operational issues in the Regional Offices. Assures that regional concerns are reflected in the development of operational plans, policy, and legislative initiatives. Coordinates the assignment of work activities which require significant Regional Office involvement or staff resources. Identifies the need for and provides technical support and guidance to regional staff. Ensures adequate information flow between Central Office, the APS regional program offices, and HDS Regional Administrators. Establishes procedures for regular communication of regional activities.

In coordination with HDS Regional Administrators and the HDS Office of Regional and Intergovernmental Relations, performs oversight of APS regional responsibility of assuring compliance with Title VI of the Civil Rights Act. Serves as APS liaison to

other HEW and HDS units concerning the operations of APS regional offices.

B. Office of Administration and Management (DSB) manages and directs activities relating to internal planning, coordination, and implementation of budget, personnel, and administrative services essential to the operation of APS.

Manages the formulation and justification of the Title XX Program Budget and the APS S&E budget. Prepares related reports and exhibits for use at Departmental, OMB, and Congressional presentations. Prepares, justifies, and manages the internal operating S&E budget. Within assigned ceiling, proposes, implements, and controls position allocation in APS. Controls administrative accounting and reprogramming of funds as necessary.

Based on ASHDS approved formula grants management policies, controls administrative accounting and reprogramming of formula grant funds. Makes grant awards to States. Processes estimates, expenditure reports and adjustments for prior periods. Maintains liaison and coordination with appropriate HDS and other HEW units to assure consistency between grant award activities and the letter-of-credit system. Controls the deferral actions process as it impacts the grant awards and the adherence to regulatory time limits. Compiles and publishes annual allotment limits under Title XX. Provides or assures the provision of necessary personnel, administration and general services support activities to APS, including organization and manpower management; internal orientation, training and staff development; procurement, records, and facilities management. Develops and maintains the APS work measurement system. Maintains liaison and coordinates activities with appropriate HDS staff offices.

C. Office of Policy Control (DSK) develops and coordinates policy initiatives, legislative proposals, and regulations for APS. Reviews and clears all APS policy related materials to assure consistency with HEW and HDS policies and requirements. Replies or assigns to appropriate divisions, tracks, coordinates and clears responses to policy inquiries from Regional Offices and other sources. Provides, or assures the provision of, consistent policy interpretation to HDS staff and outside inquiries. Serves as contact for information pertaining to APS issuances in the Federal Register. Officially disseminates regulations and other policy related material. Maintains liaison with appropriate HDS and OS units to insure legal sufficiency and consistency of policy interpretations. Proposes legislative initiatives and coordinates the development and submittal of the APS legislative plan. Performs other legislative assignments; identifies and tracks legislation and regulations of interest to APS. Analyzes legislation and disseminates relevant information to Regional Offices and APS staff. Receives and analyzes the quarterly compliance reports from Regional Offices. Assists Regional Offices on the compliance process and the development of recommendations for compliance action. Prepares documentation for the Commissioner and initiates and tracks compliance process.

D. Executive Secretariat (DSG) receives and controls correspondence. Prepares responses to correspondence or assigns the responsibility to other APS units when inquiries require technical analysis and interpretation; obtains clearance of APS Office of Policy Control as necessary. Prepares or coordinates the preparation of special reports or responses to assignments of general nature. Assures that all correspondence is answered in a timely fashion. Serves as the APS liaison with HDS Executive Secretariat. Responsible for the receipt of Freedom of Information requests and coordinates responses to such requests directed to APS.

E. Office of Program Operations (DSH) provides leadership and direction to the activities of the Division of Program Management and the Division of Financial Management. Assures the coordination of the activities of these divisions with the Office of Program Development and the APS staff offices.

1. Division of Program Management (DSH1) plans, directs, and provides leadership, professional consultation, technical information and guidance in the development and management of the State Title XX program, the development of the proposed and final Title XX CASP, the delivery of social services, and in the development and management of the Title XX training program. Provides expertise in the development of regulations and policies which relate to Title XX Comprehensive Annual Services Planning process, Title XX State program administration and the Title XX training program. Promotes the implementation of innovative service delivery methods and practices. Develops strategies and management tools for the review and monitoring of program performance. Proposes revisions to law and regulations on the basis of monitoring and program review findings.

2. Division of Financial Management (DSH2) plans, directs, and provides guidance and technical expertise in the areas of fiscal policies, standards, procedures and financial operations. Provides expertise in the development of regulations and policies which relate to the financial operations of the Title XX program. Maintains liaison and coordinates activities with appropriate HDS and other HEW units, HEW and GAO audit agencies, and other related organizations, with respect to Title XX financial matters and with respect to such initiatives as reducing losses from fraud, abuse and wasteful or inefficient management practices. Provides technical expertise and consultation, directs and manages the procedures and activities related to the formal hearing held by the Departmental Grant Appeals Board of requests by States for reconsideration of disallowed claims. Maintains liasion with appropriate HDS and HEW units and provides the contact point for State agencies requesting reconsideration.

F. Office of Program Development (DSJ) provides leadership and direction to the activities of the Division of Intergovernmental Planning and Coordination, the Divison of Research, Demonstration, and Evaluation, and the Division of Program Planning and Analysis. Assures the coordination of the activities of these divisions with the Office of Program Operations and the APS staff offices.

1. Division of Intergovernmental Planning and Coordination (DSJ1) provides assistance on the development and design of comprehensive social services systems. Reviews implementation of policies, regulations, and interpretations at the State and local level and proposes policy or legislative changes to facilitate the planning of human resource programs. Develops and coordinates the implementation of joint initiatives within HDS and with other Federal agencies in order to promote comprehensive planning of Title XX and related human service programs, including CETA, and to support coordination of program resources to meet the service needs of specific populations. Serves as an advocate for rural concerns in the development of human service policy by Federal and State programs. Provides guidance in the methods by which the concerns of low income and disadvantaged populations can be integrated into planning of social services programs and how their access to services can be facilitated.

Maintains liasion with the Department of Labor on the development and

implementation of policies relating to the provision of supportive services in the CETA programs.

Promotes and provides guidance in the methods by which consumers, Indians, volunteers, and private agencies and foundations can become actively involved in the planning and development of human resources programs within HDS and in State and Federal social service programs.

Develops and monitors EEO objectives. Assures adherence to requirements of the Federal statutes relating to non-discrimination in APS S&E contracts.

2. Division of Research, Demonstration, and Evaluation (DSJ2) develops research, demonstration and evaluation strategies; funds and manages APS research, demonstration, and evaluation grants and contracts and conducts special studies relating to the planning, administration and delivery of social service programs and the impact of such programs on clients. Provides technical guidance on the development and implementation of R&D and evaluation projects and methodologies. Disseminates findings and methods pertaining to R&D and evaluation of social services. Prepares the Annual Title XX Evaluation Report to Congress. Maintains liasion with HDS Office of Planning, Research, and Evaluation, ASPE, and other Federal offices. Reviews and clears grants and RFP's developed in other HDS bureaus. Monitors adherence of R, D, & E grantees and contractors to Title VI of the Civil Rights Act.

3. Division of Program Planning and Analysis (DSJ3) provides technical support for internal planning processes, the identification and utilization of program and budget data, and the analysis of issues relating to the improvement and management of APS programs.

Coordinates the development of management initiatives, long range plans, and consultant services plans. Designs and implements planning processes and monitors performance.

Maintains continuous contact with OPRE, OPMC, and other HDS administrations on the implementation of joint activities. Carries lead responsibility for determining the data requirements of APS program reporting, including modifications to the Social Service Reporting Requirements. Performs analyzes of CASP's, reports and data submissions. On a periodic basis, analyzes and publishes data on the APS programs. Serves as APS contact for reports clearance. Serves as technical expert within APS on methods of data development and interpretation and statistical and economic analysis. Develops and interprets trend analysis relevant to social services programs. Analyzes trends and proposes forecasting techniques.

Dated: November 8, 1979.

Patricia Roberts Harris,

Secretary.

[FR Doc. 79-35718 Filed 11-19-79; 8:45 am]

BILLING CODE 4110-92-M

Office on Families; Statement of Organization, Functions, and Delegations of Authority

This notice amends Part D of the statement of organization, functions, and delegations of authority of the Department of Health, Education, and Welfare, Office of Human Development Services (HDS), to add an Office on Families. Chapter DC, "Administration for Children, Youth, and Families" (44 FR 25700-02, 5/2/79), is amended by adding the "Office on Families (DCT)" at the end of DC.10 Organization and by adding at the end of DC.20 Functions a new section which reads as follows:

H. The Office on Families (DCT) provides a focal point for family concerns within the Department of Health, Education, and Welfare through the development and coordination of policies, legislation, and programs which affect families. Is headed by a Director, who reports to the Commissioner of the Administration for Children, Youth, and Families. Establishes and maintains a liaison with other Federal agencies that have programs and policies which affect the functioning and well being of families.

Proposes policies, legislation, and other actions which are responsive to the expressed needs of the family. Obtains recommendations on the needs of families and on potential strategies for meeting those needs from parents and other members of families, providers of services to families, family advocates, academicians, and others knowledgeable about family life.

Promotes the development of a coordinated approach to addressing the strengths and problems of families. Works to increase the sensitivity of the Department to the ramifications on family life of current and proposed programs, policies, and procedures.

Coordinates activities with the White House Conference on Families, will be involved in the implementation of recommendations coming from the White House Conference on Families, and assists in the work of its Interagency Task Force. Coordinates the collection and dissemination of information about families in conjunction with other HEW offices and Federal agencies.

Sponsors research on the family and promotes the coordination of research and other activities aimed at identifying and understanding the issues, concerns, and needs of families. Reviews research findings to identify implications for the family and their relevance to existing HEW policies and programs, and recommends specific applications for information resulting from research.

Analyzes the advantages and disadvantages of actions and policies of the Department with respect to families, and makes reommendations for changes as appropriate.

Provides technical assistance to national organizations, other Federal agencies, and State, local, and community agencies and groups.

Dated: November 13, 1979.

Patricia Roberts Harris,

Secretary.

[FR Doc. 79-35715 Filed 11-19-79; 8:45 am]

BILLING CODE 4110-92-M

Office of Education

National Advisory Council on the Education of Disadvantaged Children; Meeting

Pursuant to the Federal Advisory Committee Act, Pub. L. 92-463, section 10(a)(2), notice is hereby given of the meeting of the National Advisory Council on the Education of Disadvantaged Children on Thursday, December 6 and Friday, December 7, 1979. (Specified location to be announced at a later date.)

The meeting shall be open to the public on Thursday and Friday. However, if required, under the authority of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463), and under the exemptions contained in the Government Sunshine Act (Pub. L. 94-409), section 552b(c) (2) and (6), Title 5 U.S. Code, the meeting will be closed to the public from 3:30 p.m.-4:30 p.m., on Friday, December 7, for a review and discussion of personal documents of applicants being considered for the position of Executive Director. The discussion will involve issues of a personal nature, which, if discussed in open session, would be a clearly unwarranted invasion of personal privacy.

The National Advisory Council on the Education of Disadvantaged Children is established under section 148 of the Elementary and Secondary Education Act (20 U.S.C. 2852) to advise the President and the Congress on the effectiveness of compensatory education

to improve the educational attainment of disadvantaged children.

The main purpose of the two-day meeting will be to obtain comments on various issues related to the administration, operation and outcomes of Title I, ESEA, and other compensatory education programs. Based on these presentations, the Council will select two issues which it will devote major attention on in 1980.

Because of limited space, all persons wishing to attend should call for reservations by December 3, 1979. Any additional information regarding the above meeting may be obtained by calling Mrs. Lisa Haywood at area code 202/724–0114.

Records shall be kept of all Council proceedings and shall be available for public inspection at the Office of the National Advisory Council on the Education of Disadvantaged Children located at 425–13th Street, NW., Suite 1012, Washington, D.C. 20004. A summary of activities at the partially closed meeting will be available to the public within 14 days of the closed portion consistent with 5 U.S.C. 552b.

Signed at Washington, D.C. on November 14, 1979.

Gloria B. Strickland,

Acting Executive Director.

[FR Doc. 79-35654 Filed 11-19-79; 8:45 am]

BILLING CODE 4110-02-M

Domestic Mining and Mineral and Mineral Fuel Conservation Fellowship Program; Closing Date for Transmittal of Applications for Fiscal year 1980

Applications are invited for new projects under the Domestic Mining and Mineral and Mineral Fuel Conservation Fellowship Program.

Authority for this program is contained in Title IX, Part D of the Higher Education Act of 1965, as amended. (20 U.S.C. 1134n–1134r.)

This program issues awards to institutions of higher education.

The purpose of the awards is to assist graduate students of exceptional ability who demonstrate a financial need for advanced study in domestic mining and mineral and mineral fuel conservation including oil, gas, oil shale, and uranium.

Closing date for transmittal of applications: An application for a grant must be mailed or hand delivered by January 8, 1980.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.567, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program information: The single application form and instructions pertaining to support under Part D will be contained in the application package that will be sent to all interested applicants. An institution may make only one application and for not less than five new fellowships in an area specifically related to advanced study in domestic mining and mineral fuel conservation including oil, gas, coal, oil shale, and uranium. The focus of the study must be stated clearly; study that is only indirectly or tangentially related to the purposes of this program will not be supported. An institution must give priority in awarding fellowships to graduate students of exceptional ability who demonstrate a financial need for advanced study.

Request for the renewal of fellowship support to those continuing Fellows in good academic standing are not subject to the competitive process and will, therefore, be automatically granted.

Available funds: Approximately $4.5 million is anticipated for the domestic Mining and Mineral and Mineral Fuel Conservation Fellowship Program during the academic year 1980–81.

It is estimated that these funds will provide support for approximately 241 new fellowships, of which 221 will be for 2 years and the balance for 1 year.

These estimates do not bind the U.S. Office of Education except as may be required by the applicable statute and regulations.

Application forms: Application forms and program information packages are expected to be ready for mailing by November 19, 1979. They may be obtained by writing to the Graduate Training Branch, U.S. Office of Education, (Room 3060, Regional Office Building #3), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. The Commissioner strongly urges that the narrative portion of the application not exceed 15 pages in length. The Commissioner further urges that applicants not submit information that is not requested.

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Domestic Mining and Mineral and Mineral Fuel Conservation Fellowship Program (45 CFR Part Part 196); and

(b) General Provisions Regulations for Office of Education Programs (45 CFR Parts 100 and 100a).

Note.—The proposed Education Division General Administrative Regulations (EDGAR) were published in the Federal Register on May 4, 1979 (44 FR 26298). When EDGAR becomes effective, it will supersede the General Provisions Regulations for Office of Education programs.

If EDGAR takes effect before grants are made under this program those grants will be subject to the following provisions of EDGAR:

Subpart A (General); Subpart E (What Conditions Must be Met by a Grantee?); Subpart F (What Are the Administrative Responsibilities of a Grantee?); Subpart G (What Procedures Does the Education Division Use to Get Compliance?)

Applicants should note that an amendment to § 196.7(a) is contemplated. A notice of the proposed change will be published in the Federal Register soon.

Further information: For further information contact Dr. Donald N. Begelow, Bureau of Higher and

Continuing Education, U.S. Office of Education, (Room 3060, Regional Office Building 3), 400 Maryland Avenue, S.W., Washington, D.C. 20202, Telephone: (202) 245–2347.

(Catalog of Federal Domestic Assistance No. 13.567; Domestic Mining and Mineral and Mineral Fuel Conservation Fellowship Program)

(20 U.S. C. 1134 et seq.)

Dated: November 15, 1979.

John Ellis,

Executive Deputy Commissioner for Educational Programs.

[FR Doc. 79-35739 Filed 11-19-79; 8:45 am]

BILLING CODE 4110-02-M

Public Service Education Program; Closing Date for Transmittal of Applications for Fiscal Year 1980

Applications are invited for new projects under the Public Service Education Program.

Authority for this program is contained in Title IX, Parts A and C, of the Higher Edcuation Act of 1965, as amended. (20 U.S.C. 1134 et seq.)

This program issues awards to institutions of higher education.

The purpose of the awards is to develop training programs at institutions of higher education by providing fellowships and, in some instances, institutional grants (under Part A), for graduate or professional study for persons who plan to pursue a career in public service, especially at the State and local levels.

Closing date for transmittal of applications: An application for a grant must be mailed or hand delivered by January 8, 1980.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.555, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program information: The single application form and instructions pertaining to support under Part C (for fellowships) and Part A (for institutional grants) will be contained in the application package that will be sent to all interested applicants. It is expected that no fewer than 5 or no more than 10 fellowships of up to two-years in length will be allocated to a successful applicant.

Requests for the renewal of fellowship support to those continuing Fellows in good academic standing are not subject to the competitive process and will, therefore, be automatically granted. In connection with the allocation of fellowships under Part C, between ten and fifteen institutional grants (averaging $35,000–$50,000) will also be made to support the development of model training programs which help develop the professionalization of public service education, especially at the State and local levels.

Available funds: Approximately $4.0 million is anticipated for the Public Service Education Program during the academic year 1980–81.

It is estimated that these funds will provide support for approximately 175 students in good standing to continue their studies and for 135 new students. The new awards will be for two years. The remaining amount would fund institutional grants.

These estimates, however, do not bind the U.S. Office of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application forms: Application forms and program information packages are expected to be ready for mailing by November 19, 1979. They may be obtained by writing to the Graduate Training Branch, U.S. Office of Education, (Room 3060, Regional Office Building #3), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. The Commissioner strongly urges that the narrative portion of the application not exceed 15 pages in length and limit the overall application length to 36 pages. The Commissioner further urges that applicants not submit information that is not requested.

Special procedures: An application for an institutional grant shall provide assurance that the institution has notified the appropriate State Commission (established or designated under Section 1202 of the Higher education Act of 1965, as amended) and that the State Commission has been given the opportunity to offer recommendations on the application to the institution and to the Commissioner.

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Public Service Education Program (45 CFR Part 194); and

(b) General Provisions Regulations for Office of Education Programs (45 CFR Parts 100 and 100a).

Note.—The proposed Education Division General Administrative Regulations (EDGAR) were published in the Federal Register on May 4, 1979 (44 F.R. 26298). When EDGAR become effective, it will supersede the General Provisions Regulations for Office of Education Programs.

If EDGAR takes effect before grants are made under this program, those grants will be subject to the following provisions of EDGAR:

Subpart A (General); Subpart E (What Conditions Must be Met by a Grantee?);

Subpart F (What Are the Administrative Responsibilities of a Grantee?);

Subpart G (What Procedures Does the Education Division Use to Get Compliance?).

Applicants should note that an amendment to § 194.27(a) is contemplated. A notice of the proposed change will be published in the Federal Register soon.

Further Information: For further information contact Dr. Donald N. Bigelow, Bureau of Higher and Continuing Education, U.S. Office of Education, (Room 3060, Regional Office Building 3), 400 Maryland Avenue, S.W., Washington, D.C.

(Catalog of Federal Domestic Assistance No. 13.555; Public Service Education)

(20 U.S.C. 1134 et seq.)

Dated: November 15, 1979.

John Ellis,

Executive Deputy Commissioner for Educational Programs.

[FR Doc. 79-35738 Filed 11-19-79; 8:45 am]

BILLING CODE 4110-02-M

Office of the Secretary

White House Conference on Families; National Hearings

The White House Conference on Families was called by President Carter to "examine the strengths of American families, the difficulties they face, and the ways in which family life is affected by public policies."

The Conference is guided by a 41-person National Advisory Committee, which has adopted an innovative conference process to take the White House Conference on Families to the people. This process includes hearings, state activities, national organization activities, and issue work groups which will lead up to three White House Conferences across the country in the summer of 1980.

The purpose of the hearings is to give families an opportunity to discuss their concerns, ideas, successes and problems relating to contemporary family life. The hearings will help to identify key issues and concerns for the White House Conference on Families. Testimony should identify the most pressing concerns facing American families today and into the 1980's, together with any recommended policies, programs, and strategies for meeting these concerns. Information from the hearings will be available to all the states and will be used as background material for delegates to the National Conferences.

The fifth of the national hearings will be held in Washington, D.C.

November 30—Washington, DC—U.S. Capitol, Russell Building, 1st & C. Street, NE.

December 1—Washington, D.C.—District Building, 1350 E. Street, NW.

Other hearing sites and dates are tentatively scheduled for Detroit, Michigan, December 7–8; and Seattle, Washington, January 11–12.

The hearings are open to the public. Members of the National Advisory Committee on the White House Conference on Families will serve as the hearing panel and are hoping to hear testimony from family members themselves, as well as from representatives of organizations and agencies that are concerned about families, members of the academic community, leaders in the religious community, public officials, employers, and program administrators.

Requests to testify must be received by the White House Conference on Families, 330 Independence Avenue, SW., Washington, D.C. 20201, no later than November 26, 1979, for the District of Columbia hearings. It is anticipated that more requests to testify will be received than time will permit. Advance registration is, therefore, strongly encouraged to accommodate as many people as possible. Persons wishing to testify should submit a written request which includes the following information: name; home address; telephone numbers at both home and office; whether or not testimony is on behalf of an agency or organization and, if so, the name of the group and individuals' position title; topic of proposed testimony; preferences of location and day or evening testimony and whether an English translator or other special arrangements will be needed.

Time limits will be strictly enforced on all persons giving testimony. Whenever feasible, participants will be grouped together when dealing with similar topics. Members of the National Advisory Committee will be given an opportunity to question individuals and group members after their presentations.

Each hearing will also have a limited time set aside for individuals who have not signed up in advance. Individuals not wishing to testify at the hearings are welcome to attend.

Written testimony is also strongly encouraged and will be included as part of the record of the hearing. It should be typed and not exceed 1,000 words.

FOR FURTHER INFORMATION CONTACT: White House Conference on Families, 330 Independence Avenue, SW., Washington, D.C. 20201 (202) 472-4395.

John L. Carr,

Executive Director, White House Conference on Families.

[FR Doc. 79-35680 Filed 11-19-79; 8:45 am]

BILLING CODE 4110-12-M

White House Conference on Families; National Hearings

The White House Conference on Families was called by President Carter to "examine the strengths of American families, the difficulties they face, and the ways in which family life is affected by public policies."

The Conference is guided by a 41-person National Advisory Committee, which has adopted an innovative conference process to take the White House Conference on Families to the people. This process includes hearings, state activities, national organization activities, and issue work groups which will lead up to three White House Conferences across the country in the summer of 1980.

The purpose of the hearings is to give families an opportunity to discuss their concerns, ideas, successes and problems relating to contemporary family life. The hearings will help to identify key issues and concerns for the White House Conference on Families. Testimony should identify the most pressing concerns facing Amercian families today and into the 1980's, together with any recommended policies, programs, and strategies for meeting these concerns. Information from the hearings will be available to all the states and will be used as background material for delegates to the National Conferences.

The fifth of the national hearings will be held in Michigan.

December 7—Detroit, Michigan—Wayne County Community College, 1001 West Fort Street.

December 8—Oak Park, Michigan—Oak Park Community Center, 14300 Community Blvd.

A hearing is also tentatively scheduled for Seattle, Washington, January 11–12.

The hearings are open to the public. Members of the National Advisory Committee on the White House Conference on Families will serve as the hearing panel and are hoping to hear testimony from family members themselves, as well as from representatives of organizations and agencies that are concerned about families, members of the academic community, leaders in the religious community, public officials, employers, and program administrators.

Requests to testify must be received by the White House Conference on Families, 330 Independence Avenue, SW., Washingotn, D.C. 20201, no later than December 3, 1979, for the Michigan hearings. It is anticipated that more requests to testify will be received than time will permit. Advance registration is, therefore, strongly encouraged to accommodate as many people as possible. Persons wishing to testify should submit a written request which includes the following information: name; home address; telephone numbers at both home and office; whether or not testimony is on behalf of an agency or organization and, if so, the name of the group and individuals' position title; topic of proposed testimony; preferences of location and day or evening testimony and whether an English

translator or other special arrangements will be needed.

Time limits will be strictly enforced on all persons giving testimony. Whenever feasible, participants will be grouped together when dealing with similar topics. Members of the National Advisory Committee will be given an opportunity to question individuals and group members after their presentations.

Each hearing will also have a limited time set aside for individuals who have not signed up in advance. Individuals not wishing to testify at the hearings are welcome to attend.

Written testimony is also strongly encouraged and will be included as part of the record of the hearing. It should be typed and not exceed 1,000 words.

FOR FURTHER INFORMATION CONTACT:

Councilwoman Maryann Mahaffey (313) 224–445

or

White House Conference on Families, 330 Independence Avenue, S.W., Washington, D.C. 20201 (202) 742–4395.

John L. Carr,

Executive Director, White House Conference on Families.

[FR Doc. 79–35681 Filed 11–19–79; 8:45 am]

BILLING CODE 4110–12–M

National Institutes of Health, Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HN (National Institutes of Health) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare (40 FR 22859, May 27, 1975, as amended most recently at 44 FR 50102, August 27, 1979), is amended to reflect: (1) The establishment of the Office of Research Services; (2) the establishment of the Division of Safety; (3) the modification of the functions of the Division of Research Services and the Office of Administration; (4) the transfer of the Divisions of Administrative Services and Engineering Services from the Office of Administration to the Office of Research Services. These changes reflect a restructuring of several current organizational components that will strengthen existing programs and initiate new program activities.

Sec. HN–B, Organization and Functions is amended as follows: (1) Under the statement for Office for Medical Applications of Research (HNA9), insert the following:

Office of Research Services (HNAA). (1) Advises the Director, NIH, and his staff on the management and provision of technical and administrative services to all components of NIH in support of the research mission; (2) plans and directs service programs for materiel management, physical security, facilities construction and operation, and general services to grounds and buildings; (3) provides national leadership in research safety policy and methodology, and conducts, coordinates, and supports technical assistance, service, compliance, training and research programs in safety and environmental protection in biomedical research.

Division of Safety (HNAA2). Provides national leadership in research safety policy and methodology to NIH and the extramural biomedical research community, and conducts, fosters, coordinates and supports technical assistance, service, compliance, training and research programs, to promote and maintain safety and environmental protection in biomedical research through: (1) Activities performed by program staff and through contracts; (2) cooperation and collaboration with national and international organizations, Departmental agencies and other institutions engaged in safety and environmental protection in biomedical research; (3) collection and dissemination of information on laboratory safety and environmental protection.

Division of Administrative Services (HNAA3). (1) Plans and conducts a centralized program of technical and administrative services in support of biomedical research patient care, and administrative and plant operations; (2) advises the Associate Director for Research Services on central services matters and acts as his representative with PHS, DHEW, GAO, and GSA; (3) collaborates with scientific, technical, and administrative staff of NIH components in the management of programs to meet NIH needs for administrative services and logistical support; (4) develops and implements policies and procedures in areas of responsibility.

Division of Engineering Services (HNAA4). (1) Plans and conducts a centralized program in support of the construction, operation, and maintenance of NIH facilities and advises the Associate Director for Research Services in these areas; (2) provides engineering design and architectural services in the: (a) Planning of NIH facilities and improvements, (b) administration and inspection of NIH construction under direct contract, and (c) liaison with and inspection of projects administered by the GSA or the Office of Facilities Engineering and Property Management, DHEW, in coordination with PHS; (3) provides engineering craft and labor services in operating and maintaining NIH buildings, grounds, utility plants, and related equipment; (4) maintains liaison with state and local review and governing authorities.

(2) Under the heading Division of Research Services (HN–3), delete the complete statement and insert the following: (1) Plans and conducts, through collaboration and cooperation with national and international organizations, centralized programs of scientific, engineering, and technical services in support of biomedical research activities; (2) collaborates and coordinates with research scientists during all stages of a research project for the development and use of essential products and services; (3) provides specialized assistance and services in: (a) biomedical engineering and instrumentation design and development; (b) research animal production, maintenance, procurement, and animal disease identification and control; (c) biomedical library and translation services; and (d) medical arts and photography.

(3) Under the title for Office of Administration (HNA7), delete the functional statement and insert the following:

Office of Administration (HNA7). (1) Advises the Director, NIH, and his staff on administration and management; (2) provides leadership and guidance in all phases of management; (3) directs staff and service functions in the areas of budget and financial management, personnel management, management policy, grant and contract management, and management surveys.

Dated: November 9, 1979.

Patricia Roberts Harris,

Secretary.

[FR Doc. 79–35716 Filed 11–19–79; 8:45 am]

BILLING CODE 4110–08–M

Public Health Service

Application Announcement for Grants Residency Training in General Internal Medicine or Pediatrics

The Bureau of Health Manpower, Health Resources Administration, announces that applications for fiscal year 1980 Grants for Residency Training in General Internal Medicine or General Pediatrics are now being accepted under the authority of Section 784 of the Public Health Service Act, as amended by the Health Professions Educational Assistance Act of 1976 (P.L. 94–484).

Section 784 authorizes the award of grants to meet the costs of planning,

developing and operating approved residency training programs in internal medicine or pediatrics which emphasize training for the practice of general internal medicine or general pediatrics and to assist participating residents who plan to specialize or work in the practice of general internal medicine or general pediatrics.

To receive support, programs must meet the requirements of the Interim-Final regulations, 42 CFR, Part 57, Subpart FF, published in the **Federal Register** on November 18, 1977, (42 FR 59500) and the technical amendment to § 57.3105, (h) and (i), dated October 3, 1979. Eligible applicants are schools of medicine and osteopathy.

Approximately $5 million is expected to be available in fiscal year 1980 for competitive awards, under this authority.

Funding preferences will be given to approved projects which include the following elements:

1. Substantial training experience is in settings where physician assistants or nurse practitioners, or both, are used as part of the heath care team.

2. Coordination of administrative and educational resources to be used by a program of general internal medicine and a program of general pediatrics which are both to be conducted in a single institution within a single project.

3. Substantial portions of a project are conducted in primary medical manpower shortage area(s), especially primary medical manpower shortage area(s) which are also in a Standard Metropolitan Statistical Area, as defined by the Office of Federal Statistical Policy and Standards, Department of Commerce; or are conducted in an Area Health Education Center funded, at least in part, under section 781 of the Act.

Requests for application materials and questions regarding grants policy should be directed to: Grants Management Officer (D–28), Bureau of Health Manpower, Health Resources Administration, Center Building, Room 4–27, 3700 East-West Highway, Hyattsville, Maryland 20782, Phone: (301) 436–6564.

To be considered for fiscal year 1980 funding, applications must be received by the Grants Management Officer, Bureau of Health Manpower, Health Resources Administration, at the above address no later than January 4, 1980.

Should additional programmatic information be desired, please contact: Primary Care Education Branch, Division of Medicine, Bureau of Health Manpower, Health Resources Administration, Center Building, Room 4–50, 3700 East-West Highway, Hyattsville, Maryland 20782, Phone: (301) 436–6583.

Dated: November 13, 1979.

Henry A. Foley, Ph. D.,

Administrator.

[FR Doc. 79–35695 Filed 11–19–79; 8:45 am]

BILLING CODE 4110–83–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM 38798]

New Mexico; Notice of Application

November 13, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for one 4½-inch natural gas pipeline right-of-way across the following land:

New Mexico Principal Meridian, New Mexico

T. 31 N., R. 13 W.,
Sec. 12, E½NW¼ and NE¼SW¼.

This pipeline will convey natural gas across 0.351 of a mile of public land in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

Stella V. Gonzales,

Chief, Lands Section.

[FR Doc. 79–35692 Filed 11–19–79; 8:45 am]

BILLING CODE 4310–84–M

[NM 38847]

New Mexico; Notice of Application

November 13, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Southern Union Gathering Company has applied for one 4-inch natural gas pipeline right-of-way across the following land:

New Mexico Principal Meridian, New Mexico

T. 30 N., R. 8W.,
Sec. 3, lot 4.
T. 31 N., R. 8 W.,
Sec. 34, SW¼SW¼.

This pipeline will convey natural gas across 0.210 of a mile of public land in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

Stella V. Gonzales,

Chief, Lands Section.

[FR Doc. 79–35693 Filed 11–19–79; 8:45 am]

BILLING CODE 4310–84–M

U.S. Mineral Surveyor Appointment Examination; Notice of Examination

Notice is hereby given that the Bureau of Land Management will administer the U.S. Mineral Surveyor Appointment Examination during the latter part of February 1980 in Sacramento, California, and Reno, Nevada. Persons wishing to take the examination must submit an SF 171 by December 20, 1979, [with pages 1, 3, and 4 and the first block on page 2 completed], to the Director, Bureau of Land Management (720), 18th and "C" Streets N.W., Washington, D.C. 20240. Details for the administration of the examination will be furnished directly to the applicants by the Director (720).

Ed Hastey,

Associate Director, Bureau of Land Management.

[FR Doc. 79–35688 Filed 11–19–79; 8:45 am]

BILLING CODE 4310–84–M

Fish and Wildlife Service

Policy for Cooperative Agreements for the Registration of Chemicals and Drugs for Fishery and Wildlife Uses

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The Service has prepared a draft policy concerning cooperative agreements with other governmental agencies and with industry in the registration of chemicals and drugs for fish and wildlife purposes. The draft provides procedures whereby the Service may share the workload and cost of studies required in the registration of these compounds and uses. The guidelines would give the conditions which interested parties must meet to qualify as a cooperator. Such

agreements should be helpful in expediting the registration of needed products. Public comment on the draft policy is invited.

DATE: Comments should be submitted on or before January 21, 1978.

ADDRESS: *Comments should be sent to* the Director, (AR), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Telephone (202) 343–5715.

FOR FURTHER INFORMATION, CONTACT: Harry D. Van Meter, Registration Liaison Officer, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Telephone (202) 343–6521.

SUPPLEMENTARY INFORMATION: The cost of registering chemicals and drugs has escalated as much as 20-fold in the past 10 years. The comparatively small profit potential for a product with only a fishery or wildlife use does not usually justify the expense and risk involved for industry to assume total responsibility. Consequently, the task of developing and registering compounds for specific fishery and wildlife uses has become extremely difficult. Therefore, the burden of registering a number of these compounds has fallen on the Fish and Wildlife Service.

If the Service is to meet its obligations to fish and wildlife managers, fish culturists, safety and health agencies, and the general public, it must continue to promote the timely development and registration of chemicals and drugs which are urgently needed. This goal can best be met by joint agreements with other interests to share the workload and cost to the fullest extent possible. Therefore, the Service intends to coordinate this registration activity with other Federal agencies, States, universities, the chemical and drug industry, and other interested groups.

A. Service Policy

The Service will:

1. Establish, through the appropriate Program Manager, the priority needs for general and specific uses of compounds essential for the responsible and prudent implementation of fishery and wildlife management practices, and to use these rankings to provide direction to the registration effort.

2. Accentuate the registration effort on one priority chemical or drug at a time for each specific area of need. Compounds with potential multiple uses will be given greatest consideration. The search for alternative compounds will not be emphasized until the priority chemical is registered, or it has been determined that the priority chemical is unable to meet the efficacy, safety, or other registration requirements. Exceptions may be made if additional resources become available for research on specific compounds.

3. Use contractual services whenever feasible to expedite the registration of priority chemicals.

4. Cooperate closely with industry, universities, and Federal and State agencies by sharing the workload for studies required in the registration of priority compounds. Commitments between the Service and interested parties will require a *written agreement.*

5. Develop an effective program for screening new compounds to meet fishery and wildlife needs. All interested parties will be encouraged to provide candidate materials for preliminary testing and evaluation of their potential use for fishery or wildlife purposes. The most promising compound for an identified need will be selected for further testing and evaluation. If candidate compounds show equal promise, priority in cooperative work will be given to that compound for which the least number of studies required by the regulatory agency remain to be completed.

B. Guidelines For Agreements

All cooperative efforts will be consistent with Service priorities, available funds, personnel, facilities, and management policies. Any agreement for Service cooperation with other parties will depend upon the following conditions:

1. Priority need for use of the compound must be consistent with the Service program and policies.

2. Promising indications of efficacy must exist after the initial screening of a candidate compound.

3. Literature search must indicate that no potential problems exist because of chemical structure, nitrosamine formation, oncogenicity, teratogenicity, or mutagenicity.

4. Cooperator must provide technical data sheets, information on antidotes, modes of action, analytical procedures, degradation routes and by-products, metabolites, mammalian safety tests, and related references, if available.

5. Cooperator and the Service must agree to keep each other informed of the current status and progress of in-house studies and tests conducted and/or planned during the registration period.

6. Cooperator and the Service must maintain a reasonable timetable for completion of studies.

C. Additional Requirements for Agreements With Industry

The cooperator will:

1. Supply sufficient quantities of radiolabeled or unlabeled purified compound and of formulated products to permit thorough testing—e.g., to conduct field efficacy, toxicity, metabolism, and mammalian safety testing if it is agreed that the Service will perform any of the needed studies.

2. Provide assurance that the product would continue to be available on the market for the intended fishery or wildlife use.

Upon receiving the above assurances, the Service and the cooperator will negotiate individual assignments and responsibilities for data collection to complete the studies required in the registration process.

When the data indicate that registration appears favorable, the Service will assist in the development of recommended use directions, dosages, and safety considerations, and will help draft a use label that is consistent with applicable requirements.

An application for registration will then be submitted to the involved regulatory agency by the cooperator or the Service, as appropriate, under terms of the agreement.

Authorship

The policy was prepared by U.S. Fish and Wildlife Service personnel on assignment in chemical registration matters. The primary authors of this notice are H. William Newman and Harry D. Van Meter, Division of Fishery Ecology Research:

Dated: November 7, 1979.

Robert S. Cook,

Deputy Director, Fish and Wildlife Service.

[FR Doc. 79-35668 Filed 11-19-79; 8:45 am]

BILLING CODE 4310-55-M

Final Procedures for Implementation of Executive Order 11988—Floodplain Management and Executive Order 11990 Protection of Wetlands

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: These final procedures to implement the Floodplains Management and Protection of Wetlands Executive Orders will be published as Section 30 of the Fish and Wildlife Service (FWS) Administrative Manual as Chapter 11 (30 AM 11). They will be used by all Service personnel involved in the planning and implementation of FWS funded, permitted and undertaken actions potentially affecting floodplain areas and wetlands. They will aid FWS efforts to preserve and manage our Nation's wetland resources and to

restore and preserve the natural and beneficial values of floodplains. They will also assure that the FWS, as part of all its action in floodplains, will act to reduce the risk of flood loss and to minimize the impact of floods on human safety, health and welfare. All comments received on the draft procedures published on June 2, 1978, (43 FR 24225) have been taken into account in preparing these final procedures. Because of the extensive changes required, comments on these procedures will be accepted for 30 days following publication. Any comments received will be given due consideration and if changes are warranted they will be made and announced in the **Federal Register** prior to December 31, 1979.

DATES: Persons wishing to comment should do so prior to December 20, 1979.

ADDRESSES: Comments should be addressed to: Director, Fish and Wildlife Service, Office of Environmental Coordination, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Gene A. Whitaker, Fish and Wildlife Biologist, Office of Environmental Coordination, Fish and Wildlife Service, Washington, D.C. 20240, (202) 343–5685.

SUPPLEMENTAL INFORMATION: The Fish and Wildlife Service first published its procedures Executive Orders 11988 and 11990 in 43 FR 24225–24227 on June 2, 1978, for public comment. They incorporated by reference most of the procedures suggested by the Water Resource Council (WRC) in their Floodplain Management Guidelines (43 FR 6030) making them applicable to all FWS actions in or affecting floodplain or wetland areas. The draft procedures relied principally on each FWS program revising its procedures to assure compliance with Orders.

These procedures have now been revised based on comments from other Government agencies, the public and requirements of the Department of the Interior's Final Procedures for Implementing the Orders (44 FR 36119, June 20 1979). Representatives of the Walter Resources Council, Council on Environmental Quality, and the Flood Insurance Administration were consulted during the final drafting.

Response To Comments

Comments were received from three conservation organizations, one State fish and wildlife agency, all six Fish and Wildlife Service Regional Directors and the Alaska Area Director and from several other FWS offices. In addition, a detailed comment letter was jointly provided by the Water Resources Council (WRC), Council on Environmental Quality, and Federal Insurance Administration. These comments are hereafter referred to as "WRC comments" as they had the lead in preparing the comments and chaired a meeting with the three agencies that reviewed these final procedures.

All comments received were considered in preparation of these final procedures. The followings is s discussion of the major comments received and our responses:

1. The WRC comments and those from the conservation organizations were concerned that the draft procedures do not meet all the requirements of the Orders as explained in WRC's Guidelines. They stated that the procedures needed to include all definitions, requirements and discussions in the guidelines specifically applicable to FWS activities. Many of the comments requested inclusion of specific requirements and discussions. The intent of the writers of the draft procedures was to include the total contents of the guidelines by reference. The procedures have been revised to include all applicable definitions, requirements and discussions from the Guidelines. The complete text of Part II of the Guidelines has been included as Exhibit 2 of the procedures (not reproduced in this **Federal Register** publication) for use by personnel applying the procedures.

2. Most commenters pointed out the requirement to consider all the natural and beneficial values of floodplains during the planning and implementation of all actions. The procedures have been revised to require this. A definition of natural and beneficial values has also been included in 11.6. However, when commenting on other agency proposed actions, FWS personnel will continue to emphasize effects to fish and wildlife and other natural resource values.

3. The WRC comments and several others pointed out what appeared to be a lack of consistent application of the Orders to all FWS programs. They pointed out that every activity potentially affecting floodplains or wetlands must be planned according to the Orders' requirements and adhere to the procedural requirements. To provide for uniformity and to eliminate confusion, the procedures have been revised to be uniformally applicable to all FWS programs. Supplemental guidance for specific programs or for specific sections of the country may be needed. However, any such guidance must be approved by the Associate Director—Environment (§ 11.7) for consistency with these procedures.

4. Several FWS commenters and a conservation organization were concerned about the requirement in the draft to provide signs identifying all floodplain lands managed by the FWS. This requriement has to be rewritten (§ 11.11) to emphasis that this only applies to property and facilities used frequently by the general public and that the intent is to protect and to better inform the public as to flood dangers. Signs will only be placed on major structures and facilities where there is existing informational signs and displays. The signs will be designed to be aesthetically appropriate.

5. The WRC comments noted that the special requirements applicable to the planning of "critical actions" were not covered. The FWS does not undertake or support any actions that could be considered critical as defined in the Executive Order and WRC's Implementing Guidelines.

6. Concern was expressed that the procedures might hinder efforts to manage fish and wildlife resources in floodplains and wetland and hinder efforts to correct past mismanagement. This is not the intent. Fish and wildlife habitat is an important natural and beneficial value of floodplain and wetland areas. Management actions are often needed to maintain and enhance these values, the same as management is needed to maintain and enhance forestry, agricultural and aquacultural resource values. Management is generally needed as part of efforts to restore values lost because of past mismanagement. The procedures require that the effects on all natural and beneficial values need to be taken into account when managing for any one value.

7. Most commenters were concerned about the applicability of the procedures to maintenance of existence of existing structures and facilities. The draft regulations gave the impression that some maintenance activities were being exempted from the requirements of the Orders. The procedures have been revised to make it clear that the Orders and these procedures apply to *all* activities in floodplains including maintenance, repair or rehabilitation of structures (walled and roofed buildings including above ground storage tanks and mobile homes) and facilities. However, it is recognized that the full procedures will not be applied to normal upkeep of existing facilities. Normal upkeep includes measures such as mowing of lawns and road sides, filling of potholes in roads, regularly scheduled tillage, oiling, and painting of water control strutures, and cleaning and repairing of nest boxes. The control of

trees and rodents along established levees, etc.

The same applies to upkeep of existing structures. The procedures state (§ 11.14) that the minimum standards of the National Flood Insurance Program (NFIP) will be met as part of all construction and rehabilitiation activities. An action that results is substantial improvement to a structure is not normal upkeep. "Substantial improvement" is defined for NFIP in 24 CFR 1909.1 as "any repair, reconstruction, or improvement of the market value of the structure either, (a) before the improvement or repair is started, or (b) if the structure has been damaged, and is being restored, before the damage occurred."

8. The relationship between the requirements of the draft procedures and the requirements of NEPA were a concern to several commenters. Some objected to the apparent requirement that an Environmental Assessment be done for all proposed actions in floodplains. These final procedures specify that the required procedures and public disclosures be incorporated in the documents and process required by NEPA, in A–95 notices, and in other documents as appropriate. The early notification of the public that an action is being planned that may effect a floodplain or wetland will be incorporated in early scoping and/or public involvement process required by NEPA for all proposed actions.

The required planning steps will be accomplished concurrently with other planning activities. The public notification that a decision has been made and the items that must be addressed will be incorporated into the Environmental Assessment and Finding of No Significant Impact or in the EIS and Record of Decision required by new NEPA Regulations (40 CFR 1501–1508). It is not the intent of these procedures to require the preparation of any new documents.

9. One commenter objected to making the procedures applicable to wetlands pointing out that E.O. 11990 (Protection of Wetlands) is not applicable to ". . . issuance by Federal agencies of permits, licenses, or allocations to private parties for activities involving wetlands on non-Federal property." It has been determined that it is not necessary to include this exception in the procedures as practically all wetlands occur in or are surrounded by a floodplain as defined by the Floodplain Management Executive Order and WRC's Guidelines. That is, they are subject to flooding from the overflow of inland and/or tidal waters, and/or the accumulation or runoff of surface waters resulting from a one percent event (the 100-year flood).

10. There was concern that no time requirements were placed on the agency review and decisionmaking process for permit actions. This is not needed as the requirements of these Executive Orders are but one set of factors to be considered as part of a permit action. Any overall time limitation on the permit process would still apply.

11. Two commenters said the draft procedures appeared to be an attempt to make the FWS the "lead agency" for any permit activities in wetlands or floodplains and duplicated the requirements of other agencies. There was no such intention. When another agency has permitting or licensing authority for actions in floodplains and wetlands the FWS merely makes recommendations to them as authorized by the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.), NEPA and other statutes, regulations memoranda of understandings, and cooperative agreements. As part of its responsibility for stewardship of fish and wildlife resources, the FWS will when reviewing project documents relating to actions of other agencies (§ 11.15) state their opinion as to the proposed actions compliance with the intent of these Orders.

12. It was requested by one commenter that a 30-day period be established for receiving comments after the initial public notification that an action is being planned that may directly or indirectly effect a floodplain or wetland area and after the first notice as planning is a continuing process with comments and public input encouraged at anytime. In addition the first notification is always made early in the planning process, generally considerably longer than 30 days before finalization of the plans, to allow public input to be of maximum value. After public notification of the final decision a minimum of 15 days, as recommended by the WRC Guidelines, will elapse before the action is commenced.

The primary author of this document is:

Gene A. Whitaker, Fish and Wildlife Biologist, Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

U.S. Fish and Wildlife Service Administrative Manual Part 30, Chapter 11, Procedures for Implementation of Executive Order 11988 (Floodplain Management) and 11990 (Protection of Wetlands)

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11.1 *Purpose.* These procedures provide general policy and procedural guidance applicable to all Fish and Wildlife Service (FWS) actions to incorporate the requirements of Executive Order 11988 (Floodplain Management) and 11990 (Protection of Wetlands), which are hereafter referred to as the orders.

11.2 *Scope.* The orders and these procedures are applicable to all FWS actions including technical assistance and grants that may result in the construction, maintenance, rehabilitation or installation of structures and facilities and all real estate transactions that are in or could potentially affect floodplain and wetland areas. (See Exhibit 1 for the texts of the orders.)

11.3 *Policy.* Floodplain areas and wetlands are critically important to many species of fish and wildlife and a valuable part of man's environment. The FWS will as part of all its actions:

—Avoid the long and short term adverse impacts associated with the occupancy and modification of floodplains.

—Avoid the direct or indirect support of wetland or floodplain development whenever there is a practicable alternative.
—Reduce the risk of flood loss and minimize the impact of floods of human health, safety and welfare through the utilization of non-structural flood protection measures.
—Restore, preserve and enhance all natural and beneficial values served by floodplains and wetlands.
—Use an integrated process to involve the public in the planning of all actions and to utilize their input whenever decisions are made.
—Incorporate the Unified National Program for Floodplain Management into relevant FWS activities and programs.
—Monitor actions undertaken, funded or permitted to ensure that they are carried out in accordance with the Orders and these directives.
—FWS personnel will, when working with other agencies and the public, advocate compliance with the spirit and intent of the Orders.

11.4 *Objectives.* The Executive Orders were issued in order to avoid to the extent possible the long and short term adverse impacts associated with the occupancy of floodplains, destruction of wetlands or modification of either whenever there is a practicable alternative. They also make it an objective of all Federal agencies to avoid the direct or indirect support of floodplain development and of new construction in wetlands whenever there is a practicable alternative.

These procedures are issued to provide for full implementation of the spirit and intent of these Executive Orders as part of all FWS undertaken or funded actions. They are to provide for FWS leadership and action to reduce the risk and impact of floods, minimize the destruction loss or degradation of wetlands and to restore, preserve and enhance the natural and beneficial values of floodplains and wetlands.

11.5 *Authority.* The Orders require all Federal agencies to adopt procedures to implement their provisions. The Department of the Interior provided final procedures for implementation of these Orders in 44 FR 36119–36122 (June 20, 1979) which are incorporated in Part 520 Chapter 1 of the Departmental Manual. These FWS procedures are developed in accordance with the Departmental requirements. They are applicable to all FWS actions in or affecting, directly or indirectly, floodplains or wetlands as specified in Part 516 of the Departmental Manual (516 DM).

11.6 *Definitions.*

A. *Action*—Any Federal activity including ". . . (1) acquiring, managing, and disposing of Federal lands and facilities; (2) providing federally undertaken, financed, or assisted construction and improvements; and (3) conducting Federal activities and programs affecting land use, including but not limited to water and related land resources planning, regulating, and licensing activities.

B. *Base Flood*—Is that flood which has a one percent chance of occurrence in any given year (also known as a 100-year flood). This term is used in the National Flood Insurance Program (NFIP) to indicate the minimum level of flooding to be used by a community in its floodplain management regulations.

C. *Base Floodplain*—The 100-year floodplain (one percent chance).

D. *Channel*—A natural or artificial watercourse of perceptible extent, with a definite bed and banks to confine and conduct continuously or periodically flowing water.

E. *Critical Action*—Any activity for which even a slight chance of flooding would be too great. The critical action floodplain is defined as the 500-year floodplain (0.2 percent chance floodplain).

F. *Facility*—Any man-made or man-placed item other than a structure.

G. *Flood or Flooding*—A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland and/or tidal waters, and/or the unusual and rapid accumulation or runoff of surface waters from any source.

H. *Floodplain*—The lowland and relatively flat areas adjoining inland and coastal waters including floodprone areas of offshore islands, including at a minimum, that area subject to a one percent or greater chance of flooding in any given year. The base floodplain shall be used to designate the 100-year floodplain (one percent floodplain).

I. *Floodproofing*—The modification of individual structures and facilities, their sites, and their contents to protect against structural failure, to keep water out or to reduce effects of water entry.

J. *Minimize*—To reduce to the smallest possible amount or degree.

K. *Natural and Beneficial Values*—Floodplains and wetlands in their natural or relatively undisturbed state serve water resources values (natural moderation of floods, water quality maintenance, and groundwater recharge), living resources values (fish wildlife, and plant resources), cultural resource values (open space, archaeological historical natural beauty, scientific study, outdoor education, and recreation), and cultivated resource values (agriculture, aquaculture, and forestry).

L. *One Percent Chance Flood*—The flood having one chance in 100 of being exceeded in any one-year period (a large flood). The likelihood of exceeding this magnitude increases in a time period longer than one year. For example, there are two chances in three of a larger flood exceeding the one percent chance flood in a 100-year period.

M. *Practicable*—Capable of being done within existing constraints. The test of what is practicable depends upon the situation and includes consideration of the pertinent factors, such as environment, cost or technology.

N. *Preserve*—To prevent modification of the natural floodplain environment or to maintain it as closely as possible to its natural state.

O. *Restore*—To re-establish a setting or environment in which the natural functions of the floodplain can again operate.

P. *Structures*—Walled or roofed buildings, including mobile homes and gas or liquid storage tanks that are primarily above ground (as set by the NFIP).

Q. *Wetlands*—Those areas which are inundated or saturated by surface or ground water with a frequency sufficient to support, or that under normal hydrologic conditions does or would support, a prevalence of vegetation or aquatic life typically adapted for life in saturated or seasonally saturated soil conditions. Examples of wetlands include, but are not limited to, swamps, fresh and salt water marshes, estuaries, bogs, beaches, wet meadows, sloughs, potholes, mudflats, river overflows, and other similar areas. This definition is intended to be consistent with the definition utilized by the U.S. Fish and Wildlife Service in the publication entitled *Classification of Wetlands and Deep Water Habitats of the United States* (Cowardin, et al., 1979).

11.7 *Responsibilities.* The Director is responsible for overall FWS compliance with the Orders. Each Associate Director (Wildlife Resources, Fishery Resources, Research, Federal Assistance and Environment) is responsible for general guidance and compliance in their respective areas of responsibility. In addition the Associate Director—Environment has been delegated review authority for FWS compliance with these FWS Orders and is responsible for WRC required reports. An individual in each FWS Regional Office and the Alaska Director, will be responsible for coordinating compliance with the Orders at the regional level. In addition each Area Office will have an individual with similar responsibilities.

Area Managers are directly responsible for assuring that all actions under their purview are planned, approved and implemented in full compliance with the Orders and these Procedures. They are also responsible for maintaining summary records for all actions undertaken that affect floodplains and wetlands. The record must at a minimum include, by project, the acres of floodplains and wetlands beneficially and adversely impacted and the number and type of structures and facilities constructed, enlarged and rehabilitated. The Regional Federal Aid Senior Staff Specialist has this responsibility for State actions funded under FWS administered programs. The appropriate Associate or Assistant Director will discharge these responsibilities for all other actions not directly under the purview of an Area Manager.

11.8 *References.* Department of the Interior, Departmental Manual Part 520 Chapter 1 (520 DM 1)—*Floodplain Management and Wetlands Protection Procedures.*

—Executive Order 11988, Floodplain Management.
—Executive Order 11990, Protection of Wetlands.
—*Unified National Program for Floodplain Management,* 1979, Water Resources Council.
—*Floodplain Management Guidelines,* Water Resources Council, February 10, 1978 (43 FR 6030).
—*Rules and Regulations of the National Flood Insurance Program,* 41 FR 207, October 26, 1976, at CFR 1909, et seq.
—*Classification of Wetlands and Deepwater Habitats of the United States.* Cowardin, L. M., et al., 1979, Washington, D.C., U.S.

Department of the Interior, Fish and Wildlife Service.

—*Impacts of Construction Activities in Wetlands of the United States.* Darnell, R. M., et al. 1976. Corvallis, WA: U.S. EPA, Office of Research and Development. Publication Number: EPA 600/3/76–045.

11.9 *Procedures for Planning and Implementing Actions in or Affecting Floodplains and Wetlands.* When an action is proposed in a wetland or floodplain the following procedural steps, discussed in more detail in Part II of WRC's Floodplain Management attached as Exhibit 2, shall be addressed and integrated into the planning process:

Step 1. *Floodplain and Wetland Determination.* During the initial stages of all planning activities a determination shall be made as to whether the action may potentially be in or effect a wetland or floodplain area. Federal Insurance Administration (FIA), maps shall be used as the primary reference for establishing floodplain limits. Step 1 of Exhibit 2 provides more detail on this requirement and Exhibit 4 supplies the procedures for obtaining FIA floodplain delineation maps. It must be kept in mind that FIA maps, when available, do not delineate portions of the floodplain less than 200 feet wide. Floodplain areas around many small lakes, ponds and wetland areas are often less than 200 feet wide. If the needed information is not available from the FIA assistance shall be requested from another Federal Agency, (see Step 1 of Exhibit 2) the FWS Office of Engineering, or a consultant.

All wetlands will be identified and inventoried according to "Classification of Wetlands and Deepwater Habitats of the United States," Cowardin et al., 1979.

If the analyses and subsequent evaluations indicate that the proposed action (1) lies outside the base floodplain and outside a wetland; (2) has no effect upon floodplain or wetland; and (3) is not expected to cause indirect support of floodplain development and wetland alteration, then planning can proceed without further consideration of the Orders.

Step 2. *Early Public Review.* Opportunities shall be provided for interested and concerned members of the public and representatives of other Federal, State and local government agencies to become involved at the beginning of the planning process. The "scoping" process required by the National Environmental Policy Act (NEPA) Regulations (40 CFR 1500–1508) will satisfy this requirement whenever an early decision is made to prepare an Environmental Impact Statement. For all other actions subject to the Order a news release will be prepared at the beginning of the planning and assessment process for local dissemination briefly describing the proposal and the major alternatives to be investigated urging the public to provide the FWS with their views and suggestions. The news release shall be sent to the newspaper with the largest circulation covering the area, a local or community newspaper(s) and to radio and TV stations covering the local areas. Copies of the news release will also: (1) be posted in local FWS installations; (2) be sent to local governmental bodies; (3) be sent to adjacent property owners; (4) be sent to other concerned individuals and organizations, and (5) be sent to other Federal and State agencies that may have an interest in the area or proposed action. When the proposal or one of its alternatives may be of national concern or interest a notice similar to the news release will also be published in the **Federal Register.** For actions where substantial citizen interest or controversy is expected a public meeting will normally be held to allow a full discussion of the issues. (See also 301 DM 2 regarding Public Involvement.)

Step 3. *Identify and Evaluate Alternatives to Locating in the Base Floodplain or Wetland.* Whenever it is proposed to undertake or locate an action in a base floodplain or wetland, alternatives to such a location must be evaluated and their practicability determined. Alternatives to be evaluated must include: (1) carrying out the proposed action at a location outside the base floodplain or wetland; (2) consideration of alternative sites within the floodplain or wetland which may have less impact; (3) other means to accomplish the same purpose as the proposed action; and (4) no action. If a practicable alternative outside the base floodplain or wetland is identified it must be selected.

Step 4. *Identify Impacts of the Proposed Action.* Occasionally there will be no practicable alternative to locating structures or facilities in a base floodplain or wetland. This will be the case for functionally dependent facilities, such as necessary water management facilities, when the objective is to preserve, manage or restore specific natural and beneficial values. The positive impacts of such proposals will generally be obvious. However, all adverse effects on all natural and beneficial resource values of the area and on lives and property must be identified. (e.g. an impoundment may benefit waterfowl while lessening habitat values for certain reptiles or upland wildlife or downstream resources.) Indirect impacts of actions taken outside of a floodplain or wetland (e.g. construction of a fish hatchery or wildlife refuge headquarters) that may indirectly affect them must receive the scrutiny. Concentrated and dispersed impacts, and short- and long-term impacts shall always be identified.

The Orders also require avoidance of the direct and indirect support of future floodplain development. Potentials for a proposed action to encourage, allow, serve or otherwise facilitate additional development must be identified. Any proposed maintenance or rehabilitation of existing facilities must also be carefully evaluated for impacts and support. Such action may reinforce existing land use developed without reflecting the concepts of hazard and risk minimization and the concepts restoration and preservation of natural floodplain values which form the basis of the Orders.

Step 5. *Minimize, Restore, Preserve.* Measures must be incorporated into actions impacting wetlands or floodplains to minimize any adverse impacts on natural and beneficial values and to minimize potential risk to lives and property. When managing for a specific natural and beneficial value adverse impacts on other such values must be minimized. (e.g. when managing bottomland hardwoods for waterfowl adverse impacts on forestry resources must be minimized.) "Minimize" is a demanding standard and requires the reduction of harm to the smallest possible degree. Regarding lives and property, the goal is to avoid increasing the flood loss potential associated with the level of the base flood prior to the proposed action. Similarly, from the standpoint of floodplain values, minimization requires that harm to such values be reduced to the smallest possible amount or degree. The Orders' requirement to minimize potential harm applies to (1) the investment at risk, or the flood loss potential harm of the action itself, (2) the impact the action may have on others, and (3) the impact the action may have on the various natural and beneficial floodplain values. WRC's *Floodplain Management Guidelines* and other references as listed in Section 3 will be utilized for designing and modifying actions to minimize harm to or within the floodplain or wetland. All practical measures to restore and preserve natural and beneficial values shall be included as part of a proposed action. The requirements of this Step are always applicable to all operation and maintenance actions.

Step 6. *Reevaluate Alternatives.* After the identification of potential adverse impacts of the proposed action and incorporation of measures to minimize these impacts and incorporation of all practicable measures to restore and preserve other values the proposed action and its alternatives will be reevaluated. The practicability of sites outside of floodplain or wetland areas will be carefully reconsidered as will the no action alternative. The possibility of changing or limiting the action to further reduce adverse impacts will also be reevaluated at this final planning stage.

Step 7. *Public Explanation.* When it is apparent from the reevaluation that there is no practicable alternative to locating in or impacting a floodplain or wetland an explanation will be included in the appropriate decision documents and A–95 clearinghouse notices. Such documents shall be made available to the public for a minimum 15-day review period prior to the commencement of the action. If an Environmental Impact Statement has been prepared on the action, the explanation will be incorporated in the Record of Decision (ROD) and provided to all who received a copy of the final EIS. Otherwise the explanation will be included in a Finding of No Significant Impact (FONSI) and provided to all those who were informed of the project as part of Step 2. In all cases the following agencies will receive copies of the NEPA documents and as appropriate other decision documents on proposals in floodplains and wetlands:

a. Environmental Protection Agency (EPA)
b. Federal Emergency Management Agency (FEMA)
c. Geological Survey (USGS)
d. Bureau of Reclamation (BR), in the western States
e. Corps of Engineers (CE)

f. Soil Conservation Service (SCS)
g. State Water Resource Agency
h. State Wildlife Agencies

The written statement explaining the decision must include:

1. A description of why the floodplain or wetland location was found to be the only practicable alternative.
2. A description of all significant facts considered in making the determination including alternative sites and actions.
3. A statement indicating whether the action conforms to all applicable State and local floodplain protection standards.
4. A description of how the action has been planned to minimize harm to or within the floodplain and wetland areas.
5. A statement indicating how the action affects natural and beneficial floodplain and wetland values.
6. A listing of the principal other agencies and individuals involved in the planning of the action.

Step 8. *Implement Action.* The Service Director, Regional Directors and Area Managers are responsible for assuring that all actions are carried out and, as appropriate, operated and maintained in conformance with the Orders and these Regulations.

11.10 *Requests for Authorizations or Appropriations.* All requests for new authorizations or appropriations for proposals to be located in or potentially affecting floodplains or wetlands will contain a statement that the proposal is in accord with and fully supports the intent of the Orders.

11.11 *Delineation of Flood Heights.* Conspicious delineation of past and probable flood heights will be made on all FWS managed property which has been or could be subjected to flooding and is used by the general public. The approximate 100-year flood level and the flood of record should be shown where available. Signs will be placed by June 1980 on all major structures and facilities available to the public in order to enhance awareness of and knowledge about flood hazards.

11.12 *Real Estate Transactions.* All FWS real estate transactions will comply with the Orders and these Regulations. When FWS controlled property in a floodplain is proposed for lease, easement, right-of-way, or disposal to non-Federal public or private parties, the conveyance documents shall describe how the use and management of the land must be restricted to comply with the Orders. The documents, unless the conveyance is only for a specific compatible use planned in full compliance with Section 11.9 of these procedures, will:

—Reference those uses that are restricted under identified Federal, State, or local floodplain regulations;
—Provide adequate restrictions on the uses of the property to assure that harm to lives and property and to floodplain values is identified, and such harm is minimized and floodplain values are restored and preserved as part of any future action.

11.13 *Federal Aid.* All projects and activities undertaken by other organizations using funds administered by the FWS shall be planned and implemented in compliance with the Orders and these procedures. Applicants must provide evidence that they have followed the planning and public involvement requirements set out in Section 11.9 of these Procedures. The Federal Aid Manual will be revised to provide specific guidance to grantees on the implementation of these Procedures.

11.14 *Construction Considerations.* The construction or rehabilitation of buildings or other facilities within or affecting a base floodplain or wetland will be undertaken by the FWS only when essential to the use and management (preservation and restoration of their natural and beneficial values) of the resource. Construction of facilities and structures will be planned in accordance with these procedures and meet the minimum standards and criteria promulgated under the National Flood Insurance Program (NFIP) (24 CFR 1909.1, 1910.1 and .3) (Exhibit 3) and carried out in a manner which is least disruptive of the floodplain environment. To achieve flood protection, structures will, wherever practicable, be elevated above the base flood level rather than filling in land. All other construction located in a floodplain will include design features which will minimize or eliminate damages when exposed to or inundated by flood waters. Site surveys undertaken by or for the FWS will include locations and elevations with respect to any floodplain or wetland areas that may be present. Hydrologic investigations will include flood frequency and location with respect to floodplains.

11.15 *Review of Other Agency Actions.* Minimization of the disruption of fish and wildlife and other natural and beneficial values served by floodplains can best be attained by avoiding the floodplain. An agency's analysis leading to a finding that there is no practicable alternative to carrying out an action in a floodplain or wetland is the most crucial determination in the Orders. Therefore, FWS personnel will closely review practicability determinations made by other agencies proposing actions in a floodplain or wetland. If in the view of the FWS a proposed or preferred action is not in compliance with the Orders, the comments will so state and appropriate recommendations will be made.

As part of any technical assistance to private parties, local, State, or other Federal agencies and as part of required consultations under the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.) and other laws FWS personnel will pay particular attention to the requirements of the Orders. When participating in scoping and other early planning activities personnel will point out any unidentified impacts, suggest alternative project elements with less impact, and recommend steps that could be taken to restore or enhance natural floodplain or wetland values.

Dated: November 15, 1979.

Lynn A. Greewalt,

Director, Fish and Wildlife Service.

[FR Doc. 79-35645 Filed 11-19-79; 8:45 am]

BILLING CODE 4310-55-M

Heritage Conservation and Recreation Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before November 9, 1979. Pursuant to § 60.13 of 36 CFR Part 60, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, Heritage Conservation and Recreation Service, U.S. Department of the Interior, Washington, DC 20243. Written comments or a request for additional time to prepare comments should be submitted by November 30, 1979.

Carol Shull,

Acting Chief, Registration Branch.

ALABAMA

St. Clair County

Ashville vicinity, *Green, Jacob, House,* E of Ashville on SR 33.

CALIFORNIA

Santa Barbara County

Santa Barbara vicinity, *Santa Cruz Island Archeological District.*

COLORADO

Denver County

Denver, *Elsner, John, House,* 2810 Arapahoe St.

DISTRICT OF COLUMBIA

Washington

Sumner, Charles, School, 17th and M Sts., NW.

GEORGIA

Brooks County

Quitman, *Turner, Henry Gray, House and Grounds,* 1000 Old Madison Rd.

Fulton County

Atlanta, *Retail Credit Company Home Office Building,* 90 Fairlie St.

Lowndes County

Valdosta, *Crescent, The (Col. William S. West House)* 904 N. Patterson St.

ILLINOIS

Kane County

Montgomery, *Gray-Watkins Mill,* 211 N. River St.

Will County

Lockport, *Milne, Robert, House,* 535 E. 7th St.

INDIANA

Marion County

Indianapolis, *Bals-Wocher House,* 951 N. Delaware St.

LOUISIANA

Orleans Parish

New Orleans, *Odd Fellows Rest Cemetery*, Canal St. and City Park Ave.

MAINE

Knox County

Camden, *Camden Yacht Club*, Bay View St.

MARYLAND

Wicomico County

Whitehaven, *Whitehaven Historic District*, Whitehaven Rd., Church and River Sts., Cinder and Locust Lanes.

MASSACHUSETTS

Essex County

Peabody, *O'Shea Building*, 1–15 Main St.

Middesex County

Chelmsford, *Chelmsford Center Historic District*, MA 4, MA 110 and MA 27.

Norfolk County

Quincy, *Quincy Town Hall*, 1305 Hancock St.

Plymouth County

Plymouth vicinity, *Clifford-Warren House*, E of Plymouth at 3 Clifford Rd.

Suffolk County

Boston, *Union Wharf*, 295–353 Commercial St.

MINNESOTA

Anoka County

Anoka, *Anoka-Champlin Mississippi River Bridge*, U.S. 52 at Mississippi River (also in Hennepin County).
Anoka, *Anoka Post Office*, 300 E. Main St.
Anoka, *Colonial Hall and Masonic Lodge No. 30*, 1900 3rd Ave. South.
Anoka, *Kline Sanatarium*, 1500 S. Ferry St.
Anoka, *Shaw-Hammons House*, 302 Fremont St.
Anoka, *Ticknor, Heman L., House*, 1625 3rd Ave. South.
Anoka, *Windego Park Auditorium*, Between S. Ferry St. and Rum River.
Anoka, *Woodbury House*, 1632 S. Ferry St.
Anoka vicinity, *Kelsey, Porter, House*, 14853 7th Ave. North.
Anoka vicinity, *School District No. 28*, 14100 St. Francis Blvd., NW.
Anoka vicinity, *Sparre Barn*, 20071 Nowthen Blvd.
Ham Lake, *Swedish Evangelical Lutheran Church*, 2200 Swedish Dr., NE.
Martin Lake Vicinity, *Crescent Grange Hall No. 512*, W of Martin Lake.
Martin Lake vicinity, *Richardson Barn*, 22814 Sunrise Rd., NE.
St. Francis, *Leathers, H. G. House*, 22957 Rum River Blvd.
St. Francis, *Riverside Hotel*, 3631 Bridge St.

Dakota County

Burnsville, *Orchard Gardens Railway Station*, SR 5 and 155th St.
Farmington, *Chicago, Milwaukee, St. Paul and Pacific Railroad Depot*, 400 2nd St.
Farmington, *Church of the Advent*, 412 Oak St.
Farmington, *Exchange Bank Building, 344 3rd St.*
Farmington vicinity, *Akin, D. F., House*, NW of Farmington at 19185 Akin Rd.
Farmington vicinity, *Horticulture Building*, Dakota County Fairgrounds.
Hastings, *Fasbender Clinic Building*, 801 Pine St.
Hastings, *Hastings Foundry-Star Iron Works*, 707 E. 1st St.
Hastings, *MacDonald-Todd House*, 309 W. 7th St.
Inver Grove Heights, *Freeman, R., House*, 9091 Inver Grove Trail.
Lakeville vicinity, *Oberhoffer, E. J., House*, 17045 Judicial Rd., West.
New Trier, *St. Mary's Church*, 8433 239th St., East.
Nininger, *Good Templars Hall (School District 24)*, 9965 124th St. East.
Waterford, *Waterford School District 72*, 321st St. and Cornell Ave.
West St. Paul, *Wentworth, G. W., House*, 1575 Oakdale Ave.

NEVADA

Washoe County

Reno, *Hawkins House*, 549 Court St.

NEW HAMPSHIRE

Rockingham County

Exeter, *Sewall, Edward, Garrison*, 16 Epping Rd.

NEW MEXICO

Mora County

Ocate, *Valdez, Narciso, House (Lorenzo Lopez House)*, NM 120.

NEW YORK

Chautauqua County

Dunkirk, *Point Gratiot Lighthouse Complex*, Sycamore Rd.

Genesee County

North Bergen, *Gifford-Walker Farm*, 7083 N. Bergen Rd. (also in Orleans County).

Jefferson County

Watertown, *Flower, Roswell P., Memorial Library*, 229 Washington St.

Kings County

Brooklyn, *Brooklyn Borough Hall*, 209 Joralemon St.
Brooklyn, *State Street Houses*, 291–299 and 290–324 State St.

New York County

New York, *Ansonia Hotel*, 2101–2119 Broadway.
New York, *Gramercy Park Historic District*, Roughly bounded by 3rd and Park Aves. S., E. 18th and 22nd Sts.
New York, *House at 37 East Fourth Street*.
New York, *New Amsterdam Theater*, 214 W. 42nd St.

Niagara County

Niagara Falls, *Williams, Johann, Farm*, 10831 Cayuga Dr.

Otsego County

Unadilla, *Mann, Andrew, Inn*, 33 Riverside Rd.

Sullivan County

Bloomingburg, *Bloomingburgh Reformed Protestant Dutch Church*, NY 17M.

Westchester County

Bronxville, *Lawrence Park Historic District*, Roughly bounded by Side Hill, Prescott, Kensington, Garden, and Chestnut Aves., Maidens Lane, Valley and Pondfield Rds.
Millwood, *Sarles' Tavern*, NY 100.

Wyoming County

Warsaw, *Warsaw Academy*, 73 S. Main St.

PENNSYLVANIA

Allegheny County

Pittsburgh, *Buhl Building*, 204 5th Ave.

Delaware County

Lansdowne, *Twentieth Century Club of Lansdowne*, 94 S. Lansdown Ave.

Lycoming County

Muncy vicinity, *Reading-Halls Station Bridge*, NW of Muncy off U.S. 220.

VERMONT

Bennington County

Bennington, *Downtown Bennington Historic District*, U.S. 7 and VT 9.

WEST VIRGINIA

Preston County

Cranesville vicinity, *Reckart Mill*, W of Cranesville at ject of WV 28 and SR 47/2.

Wood County

Parkersburg, *Neale, George, Jr., House*, 331 Juliana St.

WISCONSIN

Lafayette County

Shullsburg vicinity, *Gratiot House*, S of Shullsburg on Rennick Rd.

Vernon County

Viroqua, *Vernon County Courthouse*, N. Dunlap Ave.

[FR Doc. 79-35320 Filed 11-19-79; 8:45 am]
BILLING CODE 4310-03-M

DEPARTMENT OF LABOR

Employment and Training Administration

Employment Transfer and Business Competition Determinations Under the Rural Development Act; Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitve enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice. Comments received after the two-week period may not be considered. Send comments to: Administrator, Employment and Training Administration, 601 D Street, NW. Washington, D.C., 20013.

Signed at Washington, D.C. this 15th day of November 1979.

Earl T. Klein,

Director, Office of Program Services.

Applications Received During the Week Ending November 17, 1979.

Name of Applicant and Location of Enterprise: Seward Fisheries Homer, Alaska.

Principal Product or Activity: Producing and packing fish plant.

[FR Doc. 79-35929 Filed 11-19-79; 8:45 am]

BILLING CODE 4510-30-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 December 6 and 7, 1979 at the New Department of Labor Building, Room N-4437, Third Street and Constitution Avenue, Northwest, Washington, D.C. 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 in 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 Committee will continue to discuss the benchmarks for Fully Effective State Plans and the Regulatory Analyses required for OSHA standards. These issues were the major agenda items at the previous meeting which was held on November 1 and 2, 1979. The agenda will also include reports on matters pertaining to OSHA and NIOSH and there will be general discussions of the activities of these agencies.

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 appear 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 dextent which time permits.

For Additional Information Contact

Clarence Page, Division of Consumer Affairs, Occupational Safety and Health Administration, Room N-3635, Third Street and Constitution Avenue, NW., Washington, D.C. 20210, Telephone: (202) 523-8024.

Official records of the meetings will be available for public inspection at the Division of Consumer Affairs.

Signed at Washington, D.C., this 16th day of November 1979.

Eula Bingham,

Assistant Secretary of Labor.

[FR Doc. 79-35961 Filed 11-19-79; 8:45 am]

BILLING CODE 4510-26-M

Office of the Secretary

[TA-W-6102]

Arkwright Mills I, Spartanburg, S.C.; 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 September 25, 1979 in response to a worker petition received on September 24, 1979 which was filed on behalf of workers and former workers producing cloth for wearing apparel at Arkwright Mills I, Spartanburg, South Carolina. The investigation revealed that the plant also produced fabric for pocketing. In the following determinations, without regard to whether any of the other criteria have been met, the following criterion has not been met.

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Imports of grey woven fabric declined absolutely in the first half of 1979 compared with the first half of 1978.

A Department survey revealed that only two of Arkwright's customers import any grey woven fabric. Both of these customers reported decreased import purchases in the first nine

months of 1979 compared with the like period in the previous year.

Conclusion

After careful review, I determine that all workers of Arkwright Mills I, Spartanburg, South Carolina 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 13th day of November 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-35778 Filed 11-19-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6035]

Barnes Worsteds, Inc., Kingston, Mass.; 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 September 19, 1979 in response to a worker petition received on September 17, 1979 which was filed on behalf of workers formerly producing worsted fabrics at Barnes Worsteds, Incorporated, Kingston, Massachusetts. 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.

U.S. imports of finished wool fabric declined absolutely in the first six months of 1979 compared to the like period in 1978. U.S. imports of finished fabric declined in the first six months of 1978. The ratio of U.S. imports to U.S. production of finished fabric was two percent or less in each year during the 1974–1975 time period.

Barnes Worsteds, Incorporated worked on a commission basis for several manufacturers during the period under investigation. A Departmental survey revealed that the manufacturers did not employ any foreign contractors nor did the manufacturers import worsted fabric from 1977 through August 1979. Manufacturers responding to the survey reported that their company sales increased in the January–August period of 1979 compared to the January–August period of 1978.

Conclusion

After careful review, I determine that all workers of Barnes Worsted, Incorporated, Kingston, Massachustts 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 13th day of November 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-35779 Filed 11-19-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6121]

Bendey Shoe, Inc., Bangor, Maine; Certification 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 October 1, 1979, in response to a worker petition received on September 24, 1979, which was filed on behalf of workers and former workers producing men's shoes at Bendey Shoe, Incorporated, Bangor, Maine. It is concluded that all of the requirements have been met.

U.S. imports of men's dress and casual footwear, except athletic, decreased slightly from 1977 to 1978. The ratio of imports to domestic production, however, remained above 75 percent during 1977 and 1978 and increased during the first half of 1979 compared to the same period of 1978.

A Department survey was conducted with customers of the Milford Shoe Company, selling agent for Bendey Shoe, Incorporated. The survey revealed that many customers have decreased purchases of men's footwear from Milford Shoe and Bendey Shoe and increased purchases from foreign sources during the first nine months 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 shoes produced at Bendey Shoe, Incorporated, Bangor, Maine 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 certificaiton:

All workers of Bendey Shoe, Incorporated, Bangor, Maine who became totally or partially separated from employment on or after May 19, 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 9th day of November 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-35780 Filed 11-19-79; 8:45 am]

BILLING CODE 4510-28-M

Cal-Sew Apparel, Inc.; 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 November 30, 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 November 30, 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, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 13th day of November 1979.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Cal-Sew Apparel, Inc. (workers)	Los Angeles, Calif	10/10/79	9/18/79	TA-W-6,356	Women's tops and blouses.
Guyan Service Company (workers)	Logan, W. Va.	10/29/79	10/22/79	TA-W-6,3357	Power line construction work (electrical service).
Kramer Beef Co. (workers)	Scranton, Pa	10/29/79	10/15/79	TA-W-6,3358	Slaughterhouse and meat packing plant.
Leather Styles, Inc. (ACTWU)	New York, N.Y	11/3/79	10/31/79	TA-W-6,3359	Leather apparel.
M. Snower & Company (ACTWU)	Cairo, Ill	11/3/79	10/31/79	TA-W-6,3360	Lab frocks, waiter jackets, hospital frocks, and other institutional apparel.
Oxford Textile Finishing Co., Inc. (ACTWU)	Oxford, N.J	11/6/79	10/31/79	TA-W-6,3361	Dying and finishing women's wear.
Republic Steel Corp., Central Alloy District (USWA).	Canton, Ohio	11/2/79	10/25/79	TA-W-6,3362	Carbon and stainless steel products.
Rita Coal Co. (UMWA)	Elkhorn City, Ky	11/2/79	10/26/79	TA-W-6,3363	Metalurgical coal.
Russell Fork Coal Co. (UMWA)	Elkhorn City, Ky	11/2/79	10/26/79	TA-W-6,3364	Metalurgical coal.
Spartan Undies, Inc. (ILGWU)	Spartanburg, S.C	10/31/79	10/26/79	TA-W-6,3365	Children's sleepwear.
Stunzi USA, Inc. (workers)	Buena Vista, Va	10/29/79	10/22/79	TA-W-6,3366	Greige (unfinished) goods, drapery goods, fine women's wear.
W. Switchik & Sons, Inc. (ACTWU)	Philadelphia, Pa	11/3/79	10/31/79	TA-W-6,3367	Men's suits and sportcoats.
Zenith Electronics Corp. of Missouri (IBEW)	Springfield, Mo	11/7/79	11/2/79	TA-W-6,3368	Chassis, tuners, and completed assembly of the color TV sets.

[FR Doc. 79-35781 Filed 11-19-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6106]

Helen's Dress Co., New Haven, Conn.; 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 September 25, 1979 in response to a worker petition received on September 17, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing women's dresses on a contract basis at Helen's Dress Company, New Haven, Connecticut. 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.

U.S. imports of women's and misses' dresses declined absolutely in the January through June 1979 period when compared to the same period of 1978.

A Department of Labor investigation revealed that Helen's Dress Company contracts for the production of women's dresses.

The Department conducted a survey of the dress manufacturers from whom Helen's Dress Company receives contract work. This survey revealed that the manufacturers did not utilize foreign contractors for the production of dresses, nor did they increase purchases of imported women's dresses in 1978 when compared to 1977 or in the January through August 1979 period when compared to the same period of the previous year. The manufacturers who purchased imported dresses reduced their purchases of imports from 1977 to 1978 and did not import any women's dresses in 1979; in the 1977 to 1978 time period, these customers increased their contracts with other domestic firms for the production of dresses. It can be concluded that the dress manufacturers, from whom Helen's Dress Company receives contract work, increased their reliance on domestically-produced dresses at the expense of imported dresses.

Conclusion

After careful review, I determine that all workers of Helen's Dress Company, New Haven, 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 13th day of November 1979.

C. Michael Ahor,

Director, Office of Foreign Economic Research.

[FR Doc. 79-35782 Filed 11-19-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6194]

Ilex Optical Co., Inc., Rochester, N.Y.; Certification 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 October 15, 1979 in response to a worker petition received on October 10, 1979 which was filed by the International Union of Electrical, Radio and Machine Workers on behalf of workers and former workers producing specialty optics and optical systems at Ilex Optical Company, Inc., Rochester, New York. The investigation revealed that the company principally produced optical lenses. It is concluded that all of the requirements have been met.

U.S. imports of mounted lenses increased in value in 1978 from 1977 and during January–June 1979 compared to January–June 1978.

Unit sales and employment by Ilex Optical Company, Inc. declined during the first six months of 1979 compared to the same period in 1978. Ilex closed in August 1979.

A survey conducted by the U.S. Department of Commerce revealed that customers who reduced purchases from Ilex Optical Company, Inc. in 1978 and the first six months of 1979 increased purchases of imported optical lenses during the same period. On November 2, 1979 the Department of Commerce issued a certification of eligibility to apply for firm adjustment assistance applicable to Ilex Optical Company, Inc., Rochester, New York.

Conclusion

After careful review of the facts obtained in the invetigation. I conclude that increases of imports of articles like or directly competitive with optical lenses produced at Ilex Optical Company, Inc., Rochester, 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 Ilex Optical Company, Inc., Rochester, New York who became totally or partially separated from employment on or after February 5, 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 13th day of November 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-35783 Filed 11-19-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6043]

The Lamson & Sessions Co., Kent Division, Kent, Ohio; 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 September 19, 1979 in response to a worker petition received on September 17, 1979 which was filed by the Allied Industrial Workers of America on behalf of workers and former workers producing nuts at the Lamson and Sessions Company, Kent Division, Kent, Ohio. 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.

Production of nuts at Kent, measured in value, increased during 1978 compared with 1977. Production, measured in quantity and value, increased during the first nine months of 1979 compared with the first nine months of 1978.

Average total employment at Kent increased during 1978 compared with 1977 and in the first nine months of 1979 compared with the first nine months of 1978. Employment declines involving hourly workers in late 1978 and mid 1979 involved primarily indirect labor personnel. Layoffs of direct production workers in mid 1979 occurred in a department in which average total employment increased 100% during the third quarter of 1979 compared to the previous quarter. Layoffs of all direct production personnel and most indirect personnel were temporary and short term in nature.

Conclusion

After careful review, I determine that all workers of the Lamson and Sessions Company, Kent Division, Kent, Ohio are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 13th day of November 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-35784 Filed 11-19-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6008]

Milford Shoe Co., Milford, Mass.; Certification 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 September 11, 1979, in response to a worker petition received on September 4, 1979, which was filed on behalf of workers and former workers producing men's shoes at the Milford Shoe Company, Milford, Massachusetts. The investigation revealed that the plant also produces men's and women's bowling shoes. It is concluded that all of the requirements have been met.

U.S. imports of men's dress and casual footwear, except athletic, decreased slightly from 1977 to 1978. The ratio of imports to domestic production, however, remained above 75 percent during 1977 and 1978 and increased during the first half of 1979 compared to the same period of 1978.

U.S. imports of athletic footwear (including bowling shoes) decreased absolutely and relative to domestic production from 1977 to 1978. The ratio of imports to domestic production, however, remained above 200 percent during 1977 and 1978. U.S. imports increased absolutely and relative to domestic production during the first half of 1979 compared to the same period of 1978.

A Department survey was conducted with customers of the Milford Shoe Company. The survey revealed that many customers have decreased

purchases of men's footwear from Milford Shoe and increased purchases from foreign sources from 1977 to 1978 and during the first nine months of 1979 compared to the same period of 1978.

The survey also revealed that Milford Shoe's sole customer of men's and women's bowling shoes decreased purchases from Milford Shoe and increased purchases from foreign sources during the first nine months 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 shoes and men's and women's bowling shoes produced at the Milford Shoe Company, Milford, Massachusetts 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 Milford Shoe Company, Milford, Massachusetts who became totally or partially separated from employment on or after August 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 9th day of November 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-35785 Filed 11-19-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6166]

Rainsheddar, Brooklyn, N.Y.; Certification 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 October 9, 1979 in response to a worker petition received on October 2, 1979 which was filed by the Amalgamated Ladies' Garment Cutters' Union on behalf of workers and former workers producing ladies' raincoats at Rainsheddar, Brooklyn, New York. It is concluded that all of the requirements have been met.

Imports of women's, girls', and infants' raincoats increased absolutely and relative to domestic production in 1978 compared to 1977.

Rainsheddar increased its imports of ladies' raincoats from 1977 to 1978 and in the first six months of 1979 compared to the same period in 1978. Over the same periods, Rainsheddar's domestic production of ladies' raincoats declined.

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' raincoats produced at Rainsheddar, 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 Rainsheddar, Brooklyn, New York who became totally or partially separated from employment on or after September 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 13th day of November 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-35786 Filed 11-19-79; 8:45 am]

BILLING CODE 4510-28-M

Pension and Welfare Benefit Programs

[Application No. L-1517]

Notice of Proposed Exemption for Certain Transactions Involving the Norton Simon Inc. Profit Sharing Trust, Glass Containers Corp. Profit Sharing Retirement Plan and Trust, Glass Containers Corp. Profit Sharing Plan and Trust, Hunt-Wesson Retirement Account Plan and Trust, and United Can Company Profit Sharing Retirement 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). The proposed exemption would exempt until June 30, 1981 the Norton Simon Inc. Profit Sharing Trust, Glass Containers Corporation Profit Sharing Retirement Plan and Trust, Glass Containers Corporation Profit Sharing Plan and Trust, Hunt-Wesson Retirement Account Plan and Trust, and United Can Company Profit Sharing Retirement Plan and Trust (the Plans) from certain limitations with respect to the holding of qualifying employer securities. The proposed exemption, if granted, would affect participants and beneficiaries of the Plans and other persons particpating in the transactions.

DATES: Written comments must be received by the Department of Labor on or before December 18, 1979.

ADDRESS: All written comments (at least three copies) should be sent to the 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: Application No. L-1517. 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: Richard Small, of the Department of Labor, telephone (202) 523-7222. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of sections 406(a) and 407(a) of the Act. The proposed exemption was requested in an application filed by Norton Simon Inc. (Norton Simon), Glass Containers Corp., Hunt-Wesson Foods Inc., and United Can Co., the sponsors of the Plans; the Plans; and Chemical Bank which prior to January 1, 1980 will become the trustee of the Plans, pursuant to section 408(a) of the Act, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975).

Summary of Facts and Representations

The application contains 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 applicants.

(1) Norton Simon is a Delaware corporation which is engaged through subsidiaries; Glass Containers Corporation, Hunt-Wesson Foods Inc., and United Can Company (the Subsidiaries) in various businesses. Norton Simon and the Subsidiaries maintain the Plans, which are profit sharing plans. Each of the Plans require

that all or a substantial portion of the contributions made to the Plans be invested in the common stock of Norton Simon. At the present time each of the Plans holds the following amounts of the common stock of Norton Simon: 98,116.075 shares by the Norton Simon Inc. Profit Sharing Trust Plan (31.27% of this plan's assets as of December 31, 1978); 6,017.775 shares by the Glass Containers Corp. Profit Sharing Retirement Plan and Trust (73.74% of this plan's assets as of December 31, 1978); 104,795.200 shares by the Glass Containers Corp. Profit Sharing Plan and Trust (57.24% of this plan's assets as of December 31, 1978); 1,059,182.675 shares by the Hunt-Wesson Retirement Account (98.68% of this plan's assets as of December 31, 1978); 244,331.275 shares by the United Can Company Profit Sharing Retirement Plan and Trust (91.19% of this plan's assets as of December 31, 1978). Norton Simon and the Subsidiaries also maintain defined benefit pension plans that are related to each of the Plans. Under the pension plans, minimum overall retirement benefit levels are established for participants, and the pension plans pay to participants the difference, if any, between the profit-sharing benefits received by a participant from the Plans and the minimum level of overall retirement benefits. The pension plans do not own any qualifying employer assets.

(2) Chemical Bank, as the trustee of the Plans, will be the fiduciary of the Plans with the authority and discretion to control, manage, and dispose of the Norton Simon stock.

(3) On June 12, 1979 the Department issued a notice of intent to propose a regulation which would clarify the definition of the term "eligible individual account plan" under ERISA. The notice of intent indicated that if an employer maintains a defined benefit plan the benefits of which are offset by distributions from a profit sharing or other individual account plan, section 407(a) (3) and (4) may be applied either to the profit sharing plan separately or to a combination of the profit sharing plan and the defined benefit plan. The applicants represent that since no regulations have as yet been issued in this regard there is a great deal of uncertainty on the part of plan fiduciaries as to the status of the Plans as eligible individual account plans.

(4) Because of this uncertainty and the short time remaining for divestiture under section 407(a)(4)(A) of the Act, the applicants are requesting a temporary exemption to allow the Plans adequate time to bring themselves into compliance with section 407(a)(4)(A) of the Act. The applicants represent that any large liquidation of Norton Simon shares by the Plans at the present time would not be in the best interests of participants of the Plans. In light of the depressed value of Norton Simon stock, general economic conditions, and other considerations, the applicants represent that it would be in the best interests of participants and beneficiaries of the Plans if Chemical Bank had the opportunity to review the performance of the stock over an 18-month period beginning January 1, 1980. It is further represented that because of the short time for divestiture, the Plans might encounter substantial difficulty in selling their Norton Simon stock, and might be forced into an untimely sale at significantly lower prices than they could otherwise obtain if they were allowed additional time for divestiture. It will also allow the Plans a period of time to evaluate prospective investments for the proceeds of any sales.

(5) In summary the applicants represent that the continued holding of the common stock of Norton Simon Inc. by the Plans until June 30, 1981, will satisfy the criteria of section 408(a) of the Act as follows: (1) Chemical Bank, the prospective independent trustee of the Plans, represents that the retention of the Norton Simon stock by the Plans is in the best interests of the Plans; (2) the sale of Norton Simon Stock at this time might cause the Plans to receive lower prices for the stock than they could otherwise obtain if they were allowed additional time for divestiture and; (3) it will allow a period of time to enable the Plans to review prospective investments for the proceeds of any sales.

Notice to Interested Persons

All employees who are or may become eligible for a benefit under any one of the Plans and all retired participants and former participants who are receiving benefit payments, or who have a vested deferred right to receive such payments at a later date, under any of the Plans that are the subject of the application, and all affected collective bargaining agents under any of the Plans will receive notice by mail.

The notices will be mailed within 10 days after publication in the **Federal Register** of the notice of pendency of the exemption. The notices will contain a copy of the notice of pendency of the exemption, and will inform the interested persons of their right to comment within the period set forth in the notice of the pendency of the exemption.

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 does not relieve a fiduciary or other party in interest from certain other provisions of the Act, including any prohibited transaction provision 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 the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act.

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b) of the Act.

(3) Before an exemption may be granted under section 408(a) of the Act the Department must find that the exemption is administratively feasible, in the interests of the plan and of 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 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

All interested persons are invited to submit written comments on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments should state the reasons for the writer's interest in the pending 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 in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of

sections 406(a) and 407(a) of the Act shall not apply until June 30, 1981 to the continued holding of the common stock of Norton Simon Inc. as follows: 98,116.075 shares by the Norton Simon Inc. Profit Sharing Plan and Trust; 6,017.775 shares by the Glass Containers Corporation Profit Sharing Retirement Plan and Trust; 104,795.200 by the Glass Containers Corporation Profit Sharing Plan and Trust; 1,059,182.675 by the Hunt-Wesson Retirement Account Plan and Trust; and 244,331.275 shares by the United Can Company Profit Sharing Retirement Plan and Trust provided that Chemical Bank becomes the trustee of the Plans prior to January 1, 1980 with the responsibilities and authority described above.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 16th day of November, 1979.

Ian D. Lanoff,

Administrator for Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 79-35976 Filed 11-19-79; 10:01 am]

BILLING CODE 4510-29-M

LEGAL SERVICES CORPORATION

Grants and Contracts

November 14, 1979.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355a, 88 Stat. 378, 42 U.S.C. 2996-2996*l*, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly * * * such grant, contract or project * * *."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Legal Assistance of North Dakota in Bismarck, North Dakota to serve Native Americans on Turtle Mountain and Devils Lake Reservations.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, Denver Regional Office, 1726 Champa Street, Suite 500, Denver, Colorado 80202.

Dan J. Bradley,

President.

[FR Doc. 79-35788 Filed 11-19-79; 8:45 am]

BILLING CODE 6820-35-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 79-90]

Aeronautics Advisory Committee, Subcommittee on Aviation Safety Reporting System; Meeting

The Subcommittee on Aviation Safety Reporting System (ASRS) will meet December 4-5, 1979, at the Air Transport Association Headquarters, 1709 New York Avenue, NW, Washington, DC, 5th Floor Conference Room A. The meeting will be open to the public on a first-come, first-served basis up to the seating capacity of the room (about 30 persons including the Subcommittee members and participants).

The Subcommittee, which serves in an advisory capacity only, reviews ASRS operations and NASA actions taken in response to Subcommittee recommendations. The Chairperson is John H. Winant. There are currently 12 members on the Subcommittee. Following is the approved agenda for the meeting.

Agenda

December 4, 1979

8:30 a.m.—Chairpersons Remarks
9:00 a.m.—Executive Secretary's Report
9:30 a.m.—ASRS Management Report
10:00 a.m.—Monitor Group Report
11:00 a.m.—Old Business
3:00 p.m.—General Discussion
5:00 p.m.—Adjourn

December 5, 1979

8:30 a.m.—Discussion of ASRS Options
11:00 a.m.—New Business
12:00 Noon—Adjourn

For further information, contact Herman A. Rediess, NASA Headquarters, Code RTE-6, Washington, DC 20546. Telephone 202/755-2243.

Russell Ritchie,

Deputy Associate Administrator for External Relations.

November 2, 1979.

[FR Doc. 79-35646 Filed 11-19-79; 8:45 am]

BILLING CODE 7510-01-M

[Notice 79-91]

Space and Terrestrial Applications Advisory Committee; Meeting

The *Ad Hoc* Informal Advisory Subcommittee on Satellite Communications Applications of the NAC-STAAC will meet on December 5 and 6, 1979 at NASA Headquarters, Room 226-A, Federal Office Building No. 10B, 600 Independence Ave., S.W. Washington, D.C. 20546. Except as noted below, the meeting will be open to the public. Members of the public will be admitted at 8:30 a.m. on the first day only on a first-come, first-served basis and will be required to sign a visitors' register. The seating capacity of the meeting room is for 35 persons.

On the second day, the Subcommittee will reconvene to recommend and consider candidates for membership on the Subcommittee. Public discussion of the professional qualifications of candidates for membership would invade the privacy of these individuals. Since this session of the Subcommittee meeting will be concerned throughout with matters listed in 5 U.S.C. 552b(c)(6) as described above, it has been determined that this session should be closed to the public.

This Subcommittee, comprised of eight members of the NAC-STAAC including the Subcommittee Chairperson, Dr. John V. Harrington, will review the overall status of the Satellite Communications Program including activities in the 30/20 GHz band program and other issues. Three members of the NAC Space Systems and Technology Advisory Committee have been invited to participate in this meeting.

The approved agenda for the meeting is as follows:

December 5, 1979

Time and Topic

Introduction

9:00 a.m.—Program Overview—Headquarters Perspective
9:15 a.m.—Crucial Program Option Decisions for FY 80
10:00 a.m.—Program Overview at Lewis Research Center
10:15 a.m.—Program Overview at Jet Propulsion Laboratory

30/20 GHz Program

10:45 a.m.—Overall Program Plan and Current Status
11:00 a.m.—Phase II Studies—Verification System
1:00 p.m.—Supporting Research and Technology Activities
1:45 p.m.—NASA/Communications Carrier Interface Arrangements

Time and Topic

Base Research and Technology Program

2:15 p.m.—Overall Program Plan and Current Status
2:45 p.m.—Highlights of Traveling-Wave Tube and Advanced Cathode Research Activities
3:15 p.m.—Strengths and Weaknesses
4:00 p.m.—Conclusions and Recommendations
4:30 p.m.—Adjourn

December 6, 1979

Time and Topic

9:00 a.m.—In-depth Discussion of Candidates for Membership (Closed Session)
12:30 p.m.—Adjourn

For further information regarding the meeting, please contact Louis B. C. Fong, Executive Secretary of the Subcommittee, Washington, D.C. (202) 755–7450.

Russell Ritchie,

Deputy Associate Administrator for External Relations.

November 8, 1979.

[FR Doc. 79–35647 Filed 11–19–79; 8:45 am]

BILLING CODE 7510–01–M

[Notice 79–92]

Space and Terrestrial Applications Advisory Committee; Meeting

The Ad Hoc Informal Advisory Subcommittee on Agriculture, Land Cover and Hydrology of the NAC–STAAC will meet on December 13 and 14, 1979, at the Earth Resources Laboratory (ERL), National Space and Technology Laboratories (NSTL), Room No. 146, Building No. 1100, NSTL Station, MS 39529. The meeting is open to the public. Members of the public will be admitted to the meeting on both days on a first-come, first-served basis, and will be required to sign a visitors' register. The seating capacity of the meeting room is for 50 persons.

This Subcommittee, chaired by Dr. Robert M. Ragan, is comprised of eleven members of the NAC–STAAC and will review and discuss the progress and status of research activities in the Renewable Resources Program and also review the on-going and planned Applications Pilot Tests (APT's).

The approved agenda for the meeting is as follows:

December 13, 1979

Time and Topic

8:30 a.m.—Welcome
8:35 a.m.—Chairperson's Remarks
9:00 a.m.—Response to Committee Recommendations
9:30 a.m.—Update on AgRISTARS Status
10:00 a.m.—Review of Applications Pilot Tests (APT's)
Overview and Strategy
Bureau of Census and Forestry (Pennsylvania State—Div. of Natural Resources)
Navajo Nation Resources Inventory, Cotton Inc., and Missouri Farmers' Association (MFA)
USGS Irrigated Lands
St. Regis Paper and Bureau of Land Management (BLM)
Future Directions
1:00 p.m.—APT Review (Continued)
3:00 p.m.—Discussion
5:00 p.m.—Adjourn

December 14, 1979

8:30 a.m.—Basic Research Program Planning Update
9:00 a.m.—NSTL Field Center Tour and Project Review
1:00 p.m.—Strengths and Weaknesses
2:00 p.m.—Conclusions and Recommendations
3:00 p.m.—Adjourn

For further information regarding this meeting, please contact Louis B. C. Fong, Executive Secretary of the Subcommittee, Washington, D.C. at (202) 755–7450.

Russell Ritchie,

Deputy Associate Administrator for External Relations.

November 8, 1979.

[FR Doc. 79–35648 Filed 11–19–79; 8:45 am]

BILLING CODE 7510–01–M

[Notice 79–93]

Space and Terrestrial Applications Advisory Committee; Meeting

The ad hoc Informal Advisory Subcommittee on Materials Processing in Space (MPS) of the NAC–STAAC will meet in Room 226B of NASA Headquarters, 600 Independence Avenue, S.W., Washington, D.C., from 10:00 a.m. to 3:00 p.m. on December 7, 1979. The meeting is open to the public. Members of the public will be admitted to the meeting on a first-come, first-served basis up to the room's seating capacity of 40 persons, and will be required to sign a visitors' register. The approved agenda for the meeting is as follows:

December 7, 1979

Time and Topic

10:00 a.m.—Introductory Remarks
10:30 a.m.—Report on Progress in organizing a proposal and project review committee for the MPS Program
11:15 a.m.—Report on status of NASA-Industry Joint Endeavors in commercial space processing applications
12:00 noon—Lunch
1:00 p.m.—Discussion of plans and project phasing for the MPS Program Five Year Plan
2:30 p.m—Discussion and finalization of Subcommittee recommendations
3:00 p.m.—Adjourn

The STAAC ad hoc Informal Advisory Subcommittee was established to advise NASA on the Materials Processing in Space program's accomplishments, ongoing research and long range plans. The Subcommittee has six members representing the scientific and industrial communities and is chaired by Dr. Martin E. Glicksman. For further information, contact Dr. James H. Bredt, Executive Secretary of the NAC–STAAC ad hoc Informal Subcommittee on Materials Processing in Space, Code EM–7, NASA Headquarters, Washington, D.C. 20546, (202/755–8573).

Russell Ritchie,

Deputy Associate Administrator for External Relations.

November 8, 1979.

[FR Doc. 79–35649 Filed 11–19–79; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel Advisory Committee; Meetings

November 15, 1979.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at 806 15th Street, NW., Washington, D.C. 20506.

1. Date: December 6 and 7, 1979.
Time: 9 a.m. to 5:30 p.m.
Room: 1134.
Purpose: To review applications to the Research Materials Program for translations projects beginning April 1, 1980.

2. Date: December 13, 1979.
Time: 9 a.m. to 5:30 p.m.
Room: 314.
Purpose: To review Summer Stipends applications in Political Science submitted to the National Endowment for the Humanities for projects beginning after May 1, 1980.

3. Date: December 13, 1979.
Time: 9 a.m. to 5:30 p.m.
Room: 807.
Purpose: To review Summer Stipends applications in Music submitted to the National Endowment for the Humanities for projects beginning after May 1, 1980.

4. Date: December 14, 17 and 18, 1979.
Time: 9 a.m. to 5:30 p.m.
Room: 807.
Purpose: To review Elementary and Secondary Education Program applications submitted to the National Endowment for the Humanities for projects beginning after April 1, 1980.

5. Date: December 18, 1979.
Time: 9 a.m. to 5:30 p.m.
Room: 314.

Purpose: To review Summer Stipend applications In Early English Literature submitted to the National Endownment for the Humanities for projects beginning after May 1, 1980.

6. Date: December 18, 1979.
Time: 9 a.m. to 5:30 p.m.
Room: 1130.
Purpose: To review Summer Stipend applications in Religion submitted to the National Endowment for the Humanities for projects beginning after May 1, 1980.

7. Date: December 19, 1979.
Time: 9 a.m. to 5:30 p.m.
Room: 314.
Purpose: To review Summer Stipend applications in Anthropology and Archaeology submitted to the National Endowment for the Humanities for projects beginning after May 1, 1980.

8. Date: December 21, 1979.
Time: 9 a.m. to 5:30 p.m.
Room: 314.
Purpose: To review Summer Stipend applications in Philosophy I submitted to the National Endowment for the Humanities for projects beginning after May 1, 1980.

Because the proposed meetings will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1979, I have determined that the meetings would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close these meetings to protect the free exchange of internal views and to avoid interference with operation of the Committee.

If you desire more specific information, contact the Advisory Committee Management Officer, Mr. Stephen J. McLeary, 806 15th Street, NW., Washington, D.C. 20506, or call 202–724–0367.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 79–35705 Filed 11–19–79; 8:45 am]

BILLING CODE 7536–01–M

NATIONAL COMMISSION ON SOCIAL SECURITY

1980 Hearings

November 14, 1979.

The National Commission on Social Security will complete its series of eight (8) regional public hearings with three (3) hearings scheduled for early 1980. The hearings will be held:

Wednesday, January 16 in Portland, Oregon at the Portland Hilton Hotel, 921 S.W. Sixth Avenue;

Friday, January 18 in Sacramento, California at the State Office Building Number 8 auditorium, 714 P Street; and

Friday, February 15 and 16 in St. Petersburg, Florida at the Bayfront Concourse Hotel, 333 First Street, South.

All hearings will begin at 9:00 a.m. and continue until 5:00 p.m. with the exception of the February 16 hearing which will begin at 9:00 a.m. and end at 12:00 noon.

Requests to testify must be submitted 30 days in advance of the hearing giving the:

(a) Name,
(b) Business address,
(c) Telephone number,
(d) Capacity in which presentation will be made, i.e., public official, organization presentation, or private citizen,
(e) Principal issues to be discussed and position on them, and
(f) Copy of text (due 10 days before hearing).

Invitations to testify and time allotted will be determined by the number of requests received for each hearing. National organization representatives will not be allowed to make multiple presentations and are encouraged to use local representatives as witnesses. Where appropriate, witnesses may be grouped in panels. All witnesses are urged to give oral summaries of their written presentations in order to maximize the number of people heard and allow time for questioning of witnesses by Commissioners.

Organization representatives should bring fifty (50) copies of their written presentations to the hearings for distribution to the press.

An official transcript of each hearing will be made and persons unable to testify in person can submit written testimony which will be included in the official hearing record.

The press and public are invited to attend and there will be time scheduled at each hearing for local citizens to testify regarding their personal opinions of and experiences with the social security program.

Commission meetings will be held in conjunction with the Portland and St. Petersburg hearings. The Portland meeting will be held Thursday, January 17 beginning at 9:00 a.m. in the Galleria Room of the Portland Hilton Hotel. The St. Petersburg meeting is scheduled to begin at 9:00 a.m. February 14 in the Key Largo Room of the Bay Front Concourse Hotel and resume at 1:00 p.m. on February 16 in the same location. While the meetings are also open to the public the space available will accomodate approximately 40 members of the public at any time.

The Commission which was created by the 1977 Social Security Amendments is mandated to study and review the old-age, survivors, disability and health insurance programs authorized by titles II and XVIII of the Social Security Act. The nine member Commission, chaired by Milton Gwirtzman, will conclude its work in January 1981 with the submission of a report to the President and the Congress describing its findings and recommendations.

Requests to testify and inquiries about the hearings should be sent to: Melanie W. McClintock, Public Information Officer, National Commission on Social Security, 440 G Street, N.W., Room 126, Washington, D.C. 20218 (202) 376–2622.

Francis J. Crowley,

Executive Director.

[FR Doc. 79–35723 Filed 11–19–79; 8:45 am]

BILLING CODE 6820–AC–M

NUCLEAR REGULATORY COMMISSION

[Docket No. STN 50–482A]

Kansas Gas & Electric Co., et al.; Receipt of Additional Antitrust Information: Time for Submission of Views on Antitrust Matters

Kansas Gas and Electric Company, pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, filed on September 11, 1979, information requested by the Attorney General for Antitrust Review as required by 10 CFR Part 50, Appendix L. The information concerns the addition of Kansas Electric Power Cooperative, Inc. as an owner of the Wolf Creek Generating Station, Unit No. 1 located in Coffey County, Kansas.

The information was filed in connection with Kansas Gas and Electric Company and Kansas City Power and Light Company's application for an amendment to Construction Permit No. CPPR–147 to the Wolf Creek Generating Station, Unit No. 1. Construction Permit No. CPPR–147 was issued on May 17, 1977 and constuction of the plant is underway.

The original notice of receipt of application for construction permit and operating license included the antitrust aspects of the application and was published in the Federal Register on August 30, 1974 (39 FR 31684).

A copy of the Kansas Gas and Electric Company letter, dated September 11, 1979 and above stated documents are available for public examination and copying for a fee at the Commission's Public Document Room, located at 1717 H Street, N.W., Washington, D.C., 20555 and at the Coffey County Courthouse, Burlington, Kansas, 66839.

Information in connection with the antitrust review of this application can be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C., ATTN: Antitrust and Indemnity Group, Office of Nuclear Reactor Regulation.

Any person who wishes to have his views on the antitrust matters with respect to Kansas Electric Power Cooperative, Inc. presented to the Attorney General for consideration should submit such views to the U.S. Nuclear Regulatory Commission, Washington, D.C., 20555, Attention: Chief, Antitrust and Indemnity Group, Office of Nuclear Reactor Regulation on or before January 11, 1980.

Dated at Bethesda, Maryland, this 2nd day of November, 1979

For the Nuclear Regulatory Commission.

Olan D. Parr,

Chief, Light Water Reactors, Branch No. 3, Division of Project Management.

[FR Doc. 79-34706 Filed 11-19-79; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards Procedures and Administration Subcommittee; Notice of Meeting

The ACRS Procedures and Administration Subcommittee will hold an open meeting on December 5, 1979 in Room 1010, 1717 H St., NW, Washington, DC 20555.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1979, (44 FR 56408), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

Wednesday, December 5, 1979
1:30 p.m. until the conclusion of business.

The Subcommittee will discuss recommendations of the President's Commission on the Accident at Three Mile Island relating to ACRS activities and proposed ACRS comments regarding the nuclear regulatory process.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the Designated Federal Employee for this meeting, Mr. Raymond F. Fraley, (telephone 202/634-3265) between 8:15 a.m. and 5:00 p.m., EST.

Dated: November 14, 1979.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 79-35732 Filed 11-19-79; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards Subcommittee on Reliability and Probabilistic Assessment; Notice of Meeting

The ACRS Subcommittee on Reliability and Probabilistic Assessment will hold a meeting on December 5, 1979 in Room 1046, 1717 H St., NW., Washington, D.C. 20555. Notice of this meeting, previously scheduled to be held on December 4, 1979, was announced in the **Federal Register** on October 18, 1979.

In accordance with the procedures outlined in the **Federal Register** on Oct. 1, 1979, (44 FR 56408), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

Wednesday, December 5, 1979
8:30 a.m.—9:30 a.m. CLOSED

The Subcommittee will discuss items pertaining to the budget and program of the Office of Nuclear Regulatory Research. Since NRC budget proposals are now part of the President's budget—not yet submitted to Congress—public disclosure of budgetary information is not permitted. See OMB Circular No. A-10. The ACRS, however, is required by Section 5 of the 1978 NRC Authorization Act to review the NRC research program and budget and report the results of its review to Congress. In order to perform this review, the ACRS must be able to engage in frank discussion with members of the NRC Staff. For the reason just stated, a discussion would not be possible if held in public session.

I have determined, therefore, that it is necessary to close this session to protect information, the premature disclosure of which might significantly frustrate implementation of proposed action (552b(c)(9)(B)).

9:30 a.m. until the conclusion of business.
OPEN

The Subcommittee will hear presentations and hold round table discussions with representatives of several Government agencies and other groups that have used or considered quantitative risk assessment methods in their decision making process. Information discussed during this and succeeding meetings will be used by the ACRS as one basis for the development of recommendations regarding quantitative safety goals and criteria for nuclear power reactors for consideration by the NRC.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the Designated Federal Employee for this meeting, Mr. Gary Quittschreiber, (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m., EST.

Dated: November 14, 1979.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 79-35733 Filed 11-19-79; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards Subcommittee on Fire Protection; Notice of Meeting

The ACRS Subcommittee on Fire Protection will hold an open meeting on December 5, 1979 in Room 1167, 1717 H St., NW., Washington, DC 20555.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1979 (44 FR 56408) oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows: Wednesday, December 5, 1979; 2:00 p.m. until the conclusion of business.

The Subcommittee will review the proposed Fire Protection Rule for operating nuclear power plants.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the Designated Federal Employee for this meeting, Mr. John C. McKinley

(telephone 202/634–3265) between 8:15 a.m. and 5:00 p.m., EST.

Dated: November 14, 1979.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 79–35734 Filed 11–19–79; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–334]

Duquesne Light Co., et al.; Notice of Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 20 to Facility Operating License No. DPR–66 issued to Duquesne Light Company, Ohio Edison Company, and Pennsylvania Power Company (the licensees), which revised Technical Specifications for operation of the Beaver Valley Power Station, Unit No. 1 (the facility) located in Beaver County, Pennsylvania. The amendment is effective as of the date of issuance.

The amendment provides for changes in the allowable nuclear enthalpy hot channel factor, and core radial peaking factor and deletes the license condition 2.C on Rod Bow Penalty on Total Peaking Factor.

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 this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated September 22, 1978 as supplemented by letter dated February 8, 1979 and portions of letters dated October 27, 1978 and December 14, 1978, (2) Amendment No. 20 to License No. DPR–66 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001. 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 3rd day of November, 1979.

For the Nuclear Regulatory Commission.

A. Schwencer,

Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc. 79–35736 Filed 11–19–79; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–334]

Duquesne Light Co., et al.; Notice of Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 21 to Facility Operating License No. DPR–66 issued to Duquesne Light Company, Ohio Edison Company, and Pennsylvania Power Company (the licensees), which revised Technical Specifications for operation of the Beaver Valley Power Station, Unit No. 1 (the facility) located in Beaver County, Pennsylvania. The amendment is effective as of the date of issuance.

The amendment revises the Technical Specifications to reduce the time constant of the neutron flux rate reactor trips from two seconds to one second, and to reduce the trip setpoint of the high negative rate from five percent to three percent.

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 this 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 June 26, 1979, (2) Amendment No. 21 to License No. DPR–66 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001. 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 3rd day of November, 1979.

For the Nuclear Regulatory Commission.

A. Schwencer,

Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc. 79–35737 Filed 11–19–79; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. STN 50–482–SP]

Kansas Gas & Electric Co., and Kansas City Power & Light Co.; Establishment of Atomic Safety and Licensing Board To Preside in Proceeding

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register** (37 FR 28710) and Sections 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established in the following proceeding to rule on petitions for leave to intervene and/or requests for hearing and to preside over the proceeding in the event that a hearing is ordered.

Kansas Gas & Electric Co., and Kansas City Power & Light Co. (Wolf Creek Generating Station, Unit No. 1) Construction Permit No. CPPR–147.

This action is in reference to an Order published by the Commission on September 24, 1979, in the **Federal Register** (44 FR 55071–72) entitled "Kansas Gas & Electric Co. and Kansas City Power & Light Co.; Proposed Issuance of Amendment to a Construction Permit."

The Chairman of this Board and his address is as follows: Herbert Grossman, Esq., Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

The other members of the Board and their addresses are as follows:

Dr. Richard F. Cole, Atomic Safety and Licensing Board Panel, U.S Nuclear Regulatory Commission, Washington, D.C. 20555.

Mr. Glenn O. Bright, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Dated at Bethesda, Maryland this 14th day of November 1979.

Robert M. Lazo,

Acting Chairman, Atomic Safety and Licensing Board Panel.

[FR Doc. 79-35735 Filed 11-19-79; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

Trade Policy Staff Committee; Solicitation of Public Views

Pursuant to section 201 of the Trade Act of 1974, on November 5, 1979, the President received a report from the United States International Trade Commission (USITC) on the case of Nonelectric Cooking Ware (Investigation No. TA-201-39). The Commission submitted a report containing an affirmative determination that cooking ware of steel, enameled or glazed with vitreous glasses, provided for in item 653.97 of the Tariff Schedules of the United States (TSUS), is being imported into the United States in such increased quantities as to be a substantial cause of serious injury to the domestic industry producing articles like or directly competitive with the imported articles. The report contained a negative determination as regards other types of nonelectric cooking ware provided for in TSUS items 533.77, 546.38, 546.56, 546.59, 653.85, 653.93, 653.94, 654.05, 654.10, and 654.15.

The Commission finds and recommends that to prevent or remedy the serious injury to the domestic industry, it is necessary to impose rates of duty, with respect to cooking ware of steel, enameled or glazed with vitreous glasses, provided for in item 653.97 of the TSUS, as follows:

Year:	*Articles valued not over $2.25 per pound net weight*
1st year....	25 cents per pound, but not more than 50 percent ad valorem
2nd year..	25 cents per pound, but not more than 50 percent ad valorem
3rd year...	20 cents per pound, but not more than 50 percent ad valorem
4th year...	15 cents per pound, but not more than 50 percent ad valorem
5th year...	10 cents per pound, but not more than 50 percent ad valorem

Within 60 days of receiving a report from the Commission containing an affirmative determination, the President must determine what method and amount of import relief he will provide or determine that the provision of relief is not in the national economic interest and whether he will direct expeditious consideration of adjustment assistance petitions.

In determining whether to provide import relief and what method and amount of import relief he will provide, the President must take into account, in addition to other considerations he may deem relevant, the following factors:

(1) The probable effectiveness of the import relief as a means to promote adjustment, the efforts being made or to be implemented by the industry concerned to adjust to import competition, and other considerations relevant to the position of the industry in the nation's economy;

(2) The effect of import relief on consumers and on competition in the domestic markets for such articles;

(3) The effect of import relief on the international economic interest of the United States;

(4) The impact on United States industries and firms as a consequence of any possible modification of duties or other import restrictions which may result from international obligations with respect to compensation;

(5) The geographic concentration of imported products marketed in the United States;

(6) The extent to which the United States market is a focal point for exports of such articles by reason of restraints on exports of such articles to, or on imports of such articles into, third country markets; and

(7) The economic and social costs which would be incurred by taxpayers, communities and workers if import relief were or were not provided.

The Office of the Special Representative for Trade Negotiations chairs the interagency Trade Policy Committee structure that makes recommendations to the President as to what action, if any, he should take on reports submitted by the USITC under section 201(d). In order to assist the Trade Policy Staff Committee in developing recommendations to the President as to what action to take under sections 202 and 203 of the Trade Act of 1974, the Committee welcomes briefs from interested parties on the above listed subjects. (Additional information on this case is available in USITC report 201-36).

Briefs should be submitted in twenty (20) copies to Secretary, Trade Policy Staff Committee, Room 728, Office of the Special Representative for Trade Negotiations, 1800 G Street, N.W., Washington, D.C. 20506.

To be considered by the Trade Policy Staff Committee, submissions should be received in the Office of the Special Representative for Trade Negotiations no later than the close of business Monday, December 3, 1979.

William B. Kelly, Jr.,

Associate Special Trade Representative.

[FR Doc. 79-35652 Filed 11-19-79; 8:45 am]

BILLING CODE 3190-01-M

POSTAL RATE COMMISSION

Visits to Mailer Facilities

November 13, 1979.

Notice is hereby given that the Chairman of the Postal Rate Commission and members of the advisory staff visited the facilities of the Doubleday Publishing Company in Hanover, Pennsylvania, on November 13, 1979. A report of the visits will be on file in the Commission's Docket Room.

David F. Harris,

Secretary.

[FR Doc. 79-35650 Filed 11-19-79; 8:45 am]

BILLING CODE 7715-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-16336; File No. SR-NASD-79-9]

National Association of Securities Dealers, Inc.; Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on October 9, 1979, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Statement of the Terms of Substance of the Proposed Rule Change

Text of Proposed Rule Change

The following is the full text of the proposed amendments to Part V of Schedule D under Article XVI of the By-Laws of the National Association of Securities Dealers, Inc. Deleted language is bracketed.

A. Entry Fee

* * * * *

[2. In the case of a security to be entered in the NASDAQ System which is registered or admitted to unlisted trading privileges on a registered national securities exchange or exchanges, 50% of any initial listing fees paid to such exchange or exchanges for such security may be deducted from the NASDAQ entry fee for such security.]

(The remaining paragraphs under Section A are renumbered accordingly.)

B. Annual Fee

* * * * *

[2. In the case of an authorized security in the NASDAQ System which is registered or admitted to unlisting trading privileges on any registered national securities exchange or exchanges, 50% of any annual listing fees paid to such exchange or exchanges for such security may be deducted from the NASDAQ annual fee for such security.]

(The remaining paragraphs under Section B are renumbered accordingly.)

Purpose of the Proposed Rule Change

The proposed deletion of a credit for fees paid to exchanges for securities that are both listed on an exchange and quoted in the NASDAQ System reflects changes in the dissemination and display of over-the-counter quotations in listed securities since the adoption of the NASDAQ issuer quotation fees in 1974. When the NASDAQ issuer fee was adopted, NASDAQ service was the only available means to disseminate and display OTC quotations for listed securities on a real-time basis. The Association's Board was concerned that if an issuer of a listed security decided not to pay the NASDAQ issuer fee, the security would be deleted and third market makers would have no means to disseminate their quotations on a real-time Basis. As a result of this concern, the Board adopted a credit for issuers that pay a fee for listing on an exchange. With the implementation of the NASDAQ Consolidated Quotation Service, and the adoption of SEC Rule 11Acl–1, quotations of all third market makers in securities reported on the Consolidated Tape are displayed in CQS. Issuers whose quotations are displayed in CQS do not pay any fees to the Association. With the advent of CQS as an alternative source of third-market quotations, the Association's Board of Governors believes it is no longer appropriate to continue the credit given the few listed securities which are also quoted on NASDAQ.

Basis Under the Act for Proposed Rule Change

Section 15A(b)(5) provides that an association of brokers and dealers shall not be registered as a national securities association unless the Commission determines that the rules of the association provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the association operates or controls.

Comments Received From Members, Participants or Others on the Proposed Rule Change

Comments from the membership were not solicited or received.

Burden on Competition

Since the proposed amendment would affect fees charged issuers of securities rather than NASDAQ subscribers, there will be no direct effect on competition among users of the system. The elimination of the credit may discourage some issuers listed on an exchange from also including their securities in the NASDAQ System. However, the Association believes that since only a few issuers are affected and since the maximum possible entry fee is $5,000 and the maximum possible annual fee is $2,500, the impact of the elimination of the credit on issuers and the operation of the NASDAQ System will be minimal and that the benefits of the more equitable allocation of issuer fees outweighs any such impact, and is consistent with the purposes of the Act.

On or before December 24, 1979, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before December 10, 1979.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

November 13, 1979.

[FR Doc. 79-35721 Filed 11-19-79; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-16337. File No. SR-OCC-79-7]

Options Clearing Corp. Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94–29, 16 (June 4, 1975), notice is hereby given that on November 2, 1979, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would provide OCC with greater flexibility in the timeframes for accepting from Clearing Members instructions to spread, remove from spread, or apply reductions in aggregate amounts of long positions.

Statement of Basis and Purpose

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed rule change is to provide OCC with greater flexibility in the timeframes for accepting from Clearing Members, instructions to spread, remove from spread, or apply reductions in aggregate amounts of long positions. OCC accepts instructions in the form of keypunch cards, magnetic tape and hard copy. Since the hard copy form requires greater processing time, flexibility in the timeframes for accepting instructions is needed.

The proposed rule change relates to OCC's capacity to facilitate the prompt and accurate clearance and settlement of securities transactions for which it is responsible.

Comments were not and are not intended to be solicited with respect to the proposed rule change.

OCC does not believe that the proposed rule change would impose any burden on competition.

On or before December 24, 1979, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to

which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before December 10, 1979.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary

November 13, 1979.

[FR Doc. 79-35722 Filed 11-19-79; 8:45 am]

BILLING CODE 8010-01-M

[Release Nos. 34-16342, IC-10940; File No. SR-NASD-78-3]

Practices in Fixed Price Offerings

AGENCY: Securities and Exchange Commission.

ACTION: Notice of Acceptance of Comments.

SUMMARY: In May 1979, the Commission invited comment on a number of issues raised by a proposed rule change filed by the National Association of Securities Dealers, Inc. to amend its Rules of Fair Practice governing member practices with respect to fixed price offerings of securities. Because of the importance and complexity of these issues, the Commission also has been holding public hearings on this subject which are scheduled to conclude November 20, 1979. The Commission has been accepting and considering public comment received throughout these proceedings.

DATES: Comments will be accepted through December 15, 1979.

ADDRESSES: All comments should refer to File No. SR-NASD-78-3 and should be sent with 30 copies to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. All submissions will be made available for public inspection at the Commission's Public Reference Section, Room 6101, 1100 L Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Kathleen McGann or Lucy Weisz, Division of Market Regulation, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, (202) 272-2855 or 272-2839.

SUPPLEMENTARY INFORMATION: Pursuant to Section 19(b) (15 U.S.C. 78s(b)) of the Securities Exchange Act of 1934 (the "Act") (15 U.S.C. 78a *et seq.*, as amended by Pub. L. No. 94-29 (June 4, 1975)), the National Association of Securities Dealers, Inc. filed a proposed rule change concerning the giving and receiving of selling concession, discounts or other allowances in connection with fixed price offerings of securities (the "proposed rule change").[1] The Commission published notice of the proposed rule change in August 1978.[2]

Because of the importance and complexity of the issues involved, the Commission, in May 1979, published a release soliciting additional comments on the proposed rule change and announcing public hearings to explore more fully the matters discussed in that release and other issues raised by the proposed rule change.[3] The Commission has received 24 comment letters in response to that release. In addition, 15 witnesses have appeared at the public hearings which commenced September 11, 1979, and which are scheduled to conclude on November 20, 1979.

Although the comment period expired August 1, 1979, comment letters received subsequent to that date have been made part of the public record of these proceedings. The Commission will continue to accept and consider all comments submitted by December 15, 1979.

[1] The issues associated with the proposed rule change are commonly identified by reference to a judicial decision, *Papilsky* v. *Berndt*, (1976-1977 Transfer Binder) Fed. Sec. L. Rep. (CCH) ¶95,627 (S.D.N.Y. 1976).

[2] Notice of the proposed rule change was given by publication of a Commission release (Securities Exchange Act Release No. 15020 (August 2, 1978)) and by a statement of the terms of substance in the **Federal Register** (43 FR 35446 (August 9, 1978)). The Commission received 22 comment letters in response to this notice. The Commission also received 21 comment letters before formal notice of the proposed rule change was published.

[3] Securities Exchange Act Release No. 15807 (May 9, 1979), 44 FR 28574 (May 15, 1979).

By the Commission.

George A. Fitzsimmons,

Secretary.

November 14, 1979.

[FR Doc. 79-35712 Filed 11-19-79; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 16335; SR-Amex-79-17]

American Stock Exchange, Inc.; Notice of Filing of Proposed Rule Change and Order Approving Proposed Rule Change

November 13, 1979.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act"), notice is hereby given that on October 29, 1979, the American Stock Exchange, Inc. (the "Amex"), 86 Trinity Place, New York, New York 10006 filed with the Commission copies of a proposed rule change which would add a commentary to Amex Rule 114, concerning Registered Equity Market Makers, as set forth below: (Italics indicate words to be added.)

Rule 114

. . . Commentary

.13 A Registered Equity Market Maker may not initiate orders from off the floor as a market maker in reliance upon the market maker exemption contained in Section 11(a)(1) of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days from the date of this publication. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 north Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR-Amex-79-17.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and of all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the

requirements of Section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof, in that the proposed amendment to Rule 114 is designed to correct a deficiency in such rule as currently written. This modification was specifically requested of the NYSE by the Commission at the time it approved a nine month extension of Rule 114 until April 30, 1980.[1]

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-35710 Filed 11-19-79; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 21297; 70-6377]

Consolidated Natural Gas Co.; Proposed Amendment of Certificate of Incorporation and Order Authorizing Solicitation of Proxies

November 14, 1979.

Notice is hereby given that Consolidated Natural Gas Company ("Consolidated"), Four Gateway Center, Pittsburgh, Pennsylvania 15222, a registered holding company, has filed a declaration and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a), 7 and 12(e) thereof and Rules 62 and 65 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

Consolidated proposes to amend its Certificate of Incorporation and intends to submit the proposals for consideration and adoption by the stockholders at a special meeting of stockholders to be held on January 14, 1980. Approval by a majority of the shares of the company's outstanding common stock will be necessary.

Presently, Consolidated's common shareholders have the preemptive right to subscribe to new shares of common stock, except when such shares are authorized by the Board of Directors to be: (a) issued to finance the acquisition of operating properties or an interest therein or securities of a public-utility or natural gas company; or (b) sold to or through underwriters who shall have agreed to make a prompt public reoffering thereof; or (c) issued and sold in connection with an employee stock ownership plan whereby the corporation would be permitted by federal tax law to fund the plan by reducing its taxes in an amount equal to such funding; or (d) issued and sold in connection with a dividend reinvestment plan available to common stockholders of the corporation. Holders of common stock have no preemptive or preferential right to subscribe for any such shares of common stock, or any securities convertible into common stock, or any shares of preferred stock.

Consolidated now proposes that the company's Certificate of Incorporation be amended and broadened to permit the Board of Directors to issue and sell, without first making an offering to the common stockholders on a subscription basis, unissued shares of common stock presently or hereafter authorized by the company's Certificate of Incorporation for the financing with original issue common stock under Clause (a) of "the acquisition of properties, plant or equipment of any kind or nature whatsoever or an interest in such properties, plant or equipment or securities of any company, individual, partnership or association, engaged in any phase of the energy business, gaseous or otherwise."

Also, Clause (c) is proposed to be amended to permit the sale of original issue common stock to any employee benefit plan, including the company's employee stock ownership plan, system employee thrift plans, and such other like plans as may be instituted in the future. At present, such stock may be issued only in reference to the employee stock ownership plan where financed by a reduction in federal taxes in an amount equal to such funding.

In connection with the special meeting of stockholders to be held on January 14, 1980, consolidated proposes to solicit proxies seeking the affirmative vote of shareholders with respect to the above-described amendments to its Certificate of Incorporation.

It is stated that no state or federal commission, other than this Commission, has jurisdiction over the proposed transactions. The fees and expenses to be incurred in connection with the proposed transactions are estimated at $134,000, including printing expenses of $33,000, fees and expenses of Morgan Guaranty Trust Company of $57,000, charges of $20,000 for proxy solicitation services, and charges, at cost, of the system service company of $10,000.

Consolidated has filed its proxy solicitation material and requests that the effectiveness of its declaration with respect to the solicitation be accelerated as provided in Rule 62.

Notice is further given that any interested person may, not later than December 12, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notifed if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

It appearing to the Commission that consolidated's declaration regarding the proposed solicitation of proxies should be permitted to become effective forthwith pursuant to Rule 62:

It is ordered that the declaration regarding the proposed solicitation of proxies be, and hereby is, permitted to become effective forthwith pursuant to Rule 62.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-35711 Filed 11-19-79; 8:45 am]

BILLING CODE 8010-01-M

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[1] *See* Securities Exchange Act Release No. 16049 (July 27, 1979).

[Rel. No. 21296; 70-6225]

Louisiana Power & Light Co.; Post-Effective Amendment Regarding Increase of Short-Term Borrowings and Extension of Period of Authorization

November 14, 1979.

Notice is hereby given that Louisiana Power & Light Company ("Louisiana"), 142 Delaronde Street, New Orleans, Louisiana a wholly-owned subsidiary of Middle South Utilities, Inc., a registered holding company, has filed with this Commission a second and third post-effective amendment to the declaration in this proceeding pursuant to Sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act") regarding the following proposed transactions. All interested persons are referred to the amended declaration, which is summarized below, for a complete statement of the proposed transactions.

By orders in this proceeding dated December 15, 1978, January 5, 1979 and July 10, 1979, (HCAR Nos. 20832, 20873, and 21141, respectively), Louisiana was authorized to issue and sell, from time to time until December 31, 1979, notes to banks and commercial paper to a dealer in an aggregate principal amount of all such borrowings at any one time outstanding not exceeding $130,000,000, the presently effective loan commitments from such banks terminating on December 31, 1979, with loans thereunder maturing not later than December 31, 1979, and proposing further that no bank loans under any extensions or renewals of such loan commitments and no sales of Louisiana's commercial paper would be made after June 30, 1980 or having maturity date after June 30, 1980 without further authorization from this Commission on the basis of a further filing by Louisiana. As of October 19, 1979, the aggregate principal amount of short-term borrowings by means of bank loans and the sale of its commercial paper which Louisiana has outstanding, as authorized by this proceeding, is $73,337,500.

Louisiana now proposes that the aggregate principal amount of all such borrowings that it is permitted to have outstanding at any one time be increased to $150,000,000 and that the time through which such borrowings may be made and may mature be extended through December 31, 1980; and in such connection it has obtained increases in the present effective loan commitments from some or all of the participating banks, whereby the respective maximum amounts which the banks participating in the bank loans have committed themselves to lend through December 31, 1980 are as follows:

Name of bank	Maximum amount
The Chase Manhattan Bank (National Association), New York, N.Y.	$59,000,000
Irving Trust Company, New York, N.Y.	15,000,000
Manufacturers Hanover Trust Company, New York, N.Y.	10,000,000
Whitney National Bank of New Orlans, New Orleans, La.	8,000,000
First National Bank of Louisville, Louisville, Kentucky	8,000,000
First National Bank of Commerce, New Orleans, La.	6,000,000
Bank of Virginia, Richmond, Va.	5,000,000
Hibernia National Bank, New Orleans, La.	5,000,000
Security Pacific National Bank, Los Angeles, Ca.	5,000,000
National American Bank of New Orleans, New Orleans, La.	2,800,000
Jefferson Bank & Trust Company, Metairie, La.	1,000,000
The National Bank of Commerce in Jefferson Parish, New Orleans, La.	750,000
First State Bank & Trust Company, Bogalusa, La.	640,000
The Bank of New Orleans and Trust Company, New Orleans, La.	500,000
Central Bank, Monroe, La.	500,000
First National Bank of West Monroe, West Monroe, La.	500,000
First National Bank of Jefferson Parish, Gretna, La.	400,000
Bastrop National Bank, Bastrop, La.	250,000
Assumption Bank and Trust Company, Napoleonville, La.	240,000
American Bank & Trust Company in Monroe, Monroe, La.	100,000
Bank of Louisiana in New Orleans, New Orleans, La.	100,000
Guaranty Bank & Trust Company, Gretna, La.	100,000
Metairie Bank & Trust Co., Metairie, La.	100,000
Terrebonne Bank & Trust Company, Houma, La.	100,000
Ouachita National Bank, Monroe, La.	100,000
Bank of the South, Gretna, La.	100,000
First Guaranty Bank, Hammond, La.	75,000
Franklin State Bank & Trust Company, Winnsboro, La.	50,000
Winnsboro State Bank & Trust Company, Winnsboro, La.	50,000
Bank of Morehouse, Bastrop, La.	25,000
Citizens Bank & Trust Company, Thibodaux, La.	20,000
Total amount	129,500,000

All of the commitments will terminate on December 31, 1980, with all loans maturing thereunder not later than December 30, 1980. The interest rate charged by the Louisiana banks will be the prime rate in effect from time to time at The Chase Manhattan Bank (N.A.), presently 15–¼%. Louisiana maintains accounts with such banks and at July 31, 1979 the balances in such accounts aggregated $3,478,331. Although the balances in some of these Louisiana accounts may be deemed to be compensating balances, most of the accounts with the lending Louisiana banks are working accounts and fluctuations in their balances do not reflect or depend upon fluctuations in the respective amounts of such bank loans outstanding. The minimum balances customarily maintained in such Louisiana bank accounts aggregate $1,473,500. If minimum balances of 10% or 20% are required, the respective rates of interest would be 16.94% or 19.06%, respectively, using a prime rate of 15–¼%. The interest rate charged by each non-Louisiana bank will be its prime rate in effect from time to time. Each of the non-Louisiana lending banks will require a compensating balance with respect to the amount of its loan commitment and/or a compensating balance with respect to the amount of its loans to Louisiana outstanding, but in no case will such compensating balance or the total of such compensating balances exceed 20%. Assuming a 15–¼% prime rate and a 20% compensating balance, the effective interest cost on loans from the non-Louisiana banks would be 19.06%. All of the other statements previously set forth in the amended declaration in this proceeding with respect to the Louisiana banks and loans to be made therefrom and the non-Louisiana banks and the loans to be made therefrom, and with respect to the borrowings to be made by the sale of commercial paper notes, are expected to remain unchanged.

Louisiana's construction program contemplates expenditures of approximately $285,000,000 in 1980. Louisiana estimates that it will require approximately $244,000,000 of additional funds from external sources in order to finance the balance of this 1980 construction program.

It is stated that no special or separate expenses are anticipated in connection with the proposed transactions and that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

NOTICE IS FURTHER GIVEN that any interested person may, not later than December 10, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the post-effective amendment which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as amended or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from

such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-35709 Filed 11-19-79; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-16338; File No. SR-SCCP-79-14]

Stock Clearing Corp. of Philadelphia; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed Rule change as follows:

Statement of Terms of Substance of the Proposed Rule Change

Stock Clearing Corporation of Philadelphia (SCCP) proposes an amendment to Rule 23, Compensation, which deals with charges for services rendered. The proposed Rule change raises the fee for the member-to-member envelope service from $2.00 per envelope to $5.00 per envelope. The text of the Rule is as follows (deleted material in brackets, new material italicized):

Rule 23. For the services rendered to clearing members as herein provided, such clearing member shall pay compensation to Stock Clearing Corporation and PHILADEP as follows:

(Sections 1 through 6 remain unchanged.) 7. Miscellaneous Services. Member-to-member envelope service (plus carrier costs) for sender per envelope [$2.00] *5.00.* (The remaining portion of Section 7 is unchanged.)

Basis and Purpose of Proposed Rule Change

The purpose of the proposed Rule change is to make a service provided to members more cost-related.

The proposed Rule change provides equitable allocation of reasonable dues, fees and other charges among participating members in accordance with the standards set forth in section 17A(b)(3)(D) of the Act.

No formal comments have been solicited or received regarding the proposed Rule change.

No burden on competition will be imposed by the proposed Rule change. The proposed rate schedule does not discriminate between marketplaces nor does it inhibit clearing interfaces.

The foregoing Rule change has become effective pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed Rule change, the Commission may summarily abrogate such Rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof, with the Secretary of the Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public reference Room, 1100 "L" Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before December 10, 1979.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

November 13, 1979.

[FR Doc. 79-35714 Filed 11-19-79; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

National Bank Participation in the Financial Futures and Forward Placement Markets

AGENCY: Comptroller of the Currency.

ACTION: Announcement of Issuance of Banking Circular and Request for Comments.

SUMMARY: This circular considers policies and procedures that should be initiated by national banks that engage in financial futures contracts, forward placement contracts or standby contracts in their commercial banking activities.

EFFECTIVE DATE: January 1, 1980.

FOR FURTHER INFORMATION CONTACT: Scott W. Ryan or Owen Carney, Investment Securities Division, Office of the Comptroller of the Currency, Washington, D.C. 20219, 202-447-1901.

ADDRESS: Comments should be sent to the above contacts prior to December 15, 1979.

SUPPLEMENTAL INFORMATION: Banking Circular 79 (Revised) is effective January 1, 1980, and supercedes Banking Circular 79 dated November 2, 1976, and Banking Circular 79, Supplement 1 dated August 1, 1977 which are withdrawn.

This circular is being issued as part of a uniform policy of the Federal Reserve, FDIC, and Comptroller of the Currency regarding the use of financial futures and forward placement contracts by banks. It modifies the previous circulars in the following ways:

1. It does not require each futures or forward contract to specifically correspond to an appropriate cash position.

2. It formalizes the requirment to mark each futures and forward position to market at least monthly, and to record all acquired securities at the lower of cost or market price at settlement.

3. It allows bank to issue standby contracts specifying delivery in less than 150 days.

4. Prior approval by the Comptroller of the Currency for national banks to engage in futures and forwards is no longer required. However, they are required to submit a copy of the specific written policies approved by the Board of Directors, the established contract limitations, blank internal recordkeeping forms, and detailed descriptions of established internal controls to the Regional Administrator of National Banks for their region.

The Comptroller's office intends to monitor closely national bank transactions in futures, forwards, and standby contracts to ensure that any such activity is conducted in accordance with safe and sound banking practice.

This circular is being published in the **Federal Register** to ensure that all national banks and other members of the public are informed of the revised Banking Circular and to solicit comments prior to December 15, 1979.

Issuance of Banking Circular

The text of Banking Circular 79 is set forth below:

* * * * *

This circular is effective January 1, 1980, and supersedes Banking Circular 79 dated November 2, 1976, and Banking Circular 79,

Supplement 1 dated August 1, 1977, which are withdrawn.

This circular considers policies and procedures that should be initiated by national banks that engage in financial futures contracts, forward placement contracts or standby contracts in their *commercial banking* activities. We view these contracts as neither inherently prudent nor imprudent. Evidence has shown that they can be used effectively to reduce interest rate risk, but that they also can be used through speculation to increase interest rate fisk. Any use of these contracts by national banks should be in accordance with safe and sound banking practices and with levels of activity reasonably related to the bank's business needs and capacity to fulfill its obligations under the contracts.

Definitions

Financial Futures Contracts. These contracts are interest rate futures, which under Section 2 of the Commodities Exchange Act, as amended, 7 U.S.C. § 2, are *commodities* contracts traded on and *guaranteed* by a national exchange registered with and regulated by the Commodities Futures Trading Commission (CFTC). These contracts represent a commitment to purchase (to take delivery by the "long") or to sell (to make delivery by the "short") a standardized amount of the deliverable grade security at a specified price during a specified delivery month in accordance with the exchange rules regarding delivery procedures.

Forward Placement Contracts. These contracts are over-the-counter contracts for delayed delivery of securities in which the buyer (long) agrees to purchase and the seller (short) agrees to make a delivery of a specified security at a specified price for future delivery. Cash market transactions other than "when issued" transactions, specifying delivery (settlement) in excess of thirty (30) days following the trade date shall be deemed to be forward contracts. Forward contracts are not traded on organized exchanges, the terms are not standarized, and the contracts can only be terminated by agreement of both parties to the transaction.

Standby Contracts. These are optional delivery forward placement contracts. The buyer of a standby contract (put option) pays a fee for the *right* or option to sell (deliver) an agreed upon amount of specified securities to the issuer of the standby contract at a specified price at a specified future date.

Guidelines

These contracts are not considered investment securities within the meaning of 12 USC 24(7). However, with the distinctions described below for investment or non-dealer operations, asset-liability management, and dealer-bank trading activities, the use of these contracts is considered to be an activity incidental to banking. The following are minimal guidelines to be followed by national banks that engage in these markets.

1. Distinctions:

a. For *Investment portfolio* or *non-dealer operations* in fixed rate assets, banks should evaluate the interest rate risk exposure resulting from their overall investment activities to insure that the positions they take in futures, forwards and standby contracts markets will *reduce* their risk exposure. Short positions in futures and forwards contracts should reasonably relate to existing or anticipated cash positions, and should be used to enhance liquidity of the portfolio. Rather than using short hedges against portfolio holdings for purposes of income generation, we would expect, where practicable, that contract gains would be used to offset losses resulting from the sale of portfolio securities as asset yields are upgraded. Long positions in futures and forwards should reasonably reflect the bank's investment strategy and ability to fulfill its commitments.

b. *Asset-liability management* involves the matching of fixed rate and interest-sensitive assets and liabilities in order to maintain liquidity and profit-ability. Futures and forwards contracts may be used as a general hedge against the interest rate exposure associated with undesired mismatches in interest-sensitive assets and liabilities. Long positions in contracts could be used as a hedge against funding interest-sensitive assets with fixed-rate sources of funds; short positions in contracts could be used as a hedge against funding fixed-rate assets with interest-sensitive liabilities.

c. *Dealer-bank trading activities* that employ futures, forwards and standby contracts should be in accordance with safe and sound banking practices reasonably related to the bank's legally permitted trading activities.

2. The Board of Directors should consider any plan to engage in these activities and should endorse *specific written policies* in authorizing these activities. Policy objectives must be specific enough to outline permissible contract strategies and their relationships to other banking activities. Recordkeeping systems must be sufficiently detailed to permit internal auditors and examiners to determine whether operating personnel have acted in accordance with authorized objectives. Bank personnel are expected to be able to describe and document in detail how the positions they have taken in futures, forwards and standby contracts contribute to attaining the bank's stated objectives.

3. The Board of Directors should establish limitations applicable to futures, forwards and standby contract positions for each distinct category described in item 1 above, and should review contract positions periodically (at least monthly) to ascertain conformance with such limits.

4. The bank should maintain general ledger memorandum accounts or commitment registers to adequately identify and control all commitments to make or take delivery of securities. Such registers and supporting journals should, at a minimum, include:

a. The type and amount of each contract;

b. The maturity date of each contract;

c. The current market price and cost of each contract; and

d. The amount of money held in margin accounts.

5. All open positions should be reviewed and market values determined at least monthly (or more often, depending on volume and magnitude of positions) regardless of whether the bank is required to deposit margin in connection with a given contract. Underlying security commitments relating to open futures and forwards contracts should not be reported on the balance sheet. Margin deposits and any unrealized losses (and, in certain instances, as noted below, unrealized gains) are usually the only entires to be recorded on the books. All *futures* contracts should be marked to market at least monthly. Any loss related to open forwards and standby contracts should be recognized on the basis of the lower of cost or market value of the underlying security as determined at month-end. However, losses on standby contracts need be computed only by the issuer (the party committed to purchase under the contract) and only where the market value of the security is below the contract price, reduced by the amount of the deferred account described in item 7 below. Should margin on forwards contracts be required, and assuming the margin accounts would work in the same manner as financial futures exchange margins, bank forwards contracts should be carried at market to reflect the margin transactions. Open forwards contracts maintained in trading accounts may be caried at market at the option of the bank.

6. Completed futures, forwards or standby contracts giving rise to acquisition of securities will require such security transactions to be recorded on the basis of the lower of contract price or market price on settlement date. If the market value of the securities is lower than the contract price, the difference should be recorded as an immediate charge against income.

7. Fee income received by a bank in connection with the issuance of a standby contract should be deferred at initiation of the contract and accounted for as follows:

a. Upon expiration of an unexercised contract, the deferred amount should be reported as income;

b. Upon a negotiated settlement of the contact prior to maturity, the deferred amount should be accounted for as an adjustment to the expense of such settlement, and the net should be transferred to the income account; or

c. Upon exercise of the contract, the deferred amount should be accounted for as an adjustment to the basis of the acquired securities. Such adjusted cost basis should be compared to market value of securities acquired. See item 6.

8. Bank financial reports should disclose in an explanatory note any futures, forwards and standby contract activity that materially affects the bank's financial condition.

9. To insure that banks minimize credit risk associated with forwards and standby contract activity, banks should implement a system for monitoring credit risk exposure associated with various customers and dealers with whom operating personnel are authorized to transact business.

10. Banks should establish other internal controls, including periodic reports to management and internal audit programs, to assure adherence to bank policy and to prevent unauthorized trading and other abuses.

The issuance of long-term standby contracts, i.e., those for 150 days or more, which give the other party to the contract the option to deliver securities to the bank will ordinarily be viewed as inappropriate. In almost all instances where standby contracts specified settlement in excess of 150 days, regulatory authorities have found that such contracts were related not to the investment or business needs of the institution, but primarily to the earning of fee income or to speculating on future interest rate movements. Accordingly, national banks should not issue standby contracts specifying delivery in excess of 150 days, unless special circumstances warrant.

National banks engaging in the futures, forwards and standby contracts markets must submit a copy of the specific written policies approved by the Board of Directors (see item 2 above), the established contract limitations (see item 3 above), blank internal recordkeeping forms (see item 4 above), and detailed descriptions of established internal controls (see item 10 above), to the Regional Administrator of National Banks for their region. We intend to monitor closely national bank transactions in futures, forwards and standby contracts to ensure that any such activity is conducted in accordance with safe and sound banking practices.

* * * * *

Dated: November 15, 1979.

John G. Heimann,

Comptroller of the Currency.

[FR Doc. 79-35826 Filed 11-19-79; 8:45 am]

BILLING CODE 4810-33-M

VETERANS ADMINISTRATION

120-Bed Nursing Home Care Unit, Veterans Administration Medical Center, Wilkes-Barre, Pa.; Finding of No Significant Impact

The Veterans Administration has assessed the potential environment impact associated with the development of the 120-Bed Nursing Home Care Unit at the Veterans Administration Medical Center, Wilkes-Barre, Pennsylvania.

The project proposes to construct approximately 55,000 gross square feet of space to house a 120-bed nursing home care unit. The identified site is on the existing Veterans Administration property and connected to building No. 1.

Development of the project will have minimal impacts on the human and physical environment. There will be temporary noise, dust, fumes and visual impact during construction.

Mitigation of the project impacts include: Soil erosion and sedimentation control, noise abatement measures, and control of dust and fumes; and will be accomplished through construction specifications and the implementation of various engineering techniques.

The Environmental Assessment has been performed in accordance with the requirements of the National Environmental Policy Act Regulations, §§ 1501.3 and 1508.9, Title 40, Code of Federal Regulations. A "Finding of No Significant Impact" has been reached based on the information presented in this assessment.

The assessment is being placed for public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, Director, Office of Environmental Affairs (004A), Room 1018, Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420, (202-389-2526). Questions or requests for single copies of the Environmental Assessment may be addressed to the above office.

Dated: November 13, 1979.

By direction of the Administrator.

Maury S. Cralle, Jr.,

Assistant Deputy Administrator for Financial Management and Construction.

[FR Doc. 79-35703 Filed 11-19-79; 8:45 am]

BILLING CODE 8320-01-M

Policies and Procedures; School Liability

AGENCY: Veterans Administration.

ACTION: Final Notice.

SUMMARY: The Veterans Administration is publishing new and revised statements of policy and procedures which the Agency has adopted for use in determining whether an educational institution may be held liable for an overpayment of educational assistance made to a veteran or eligible person. These policy and procedural statements will better acquaint veterans, eligible persons, educational institutions and the public at large with the way in which decisions will be reached in this area.

EFFECTIVE DATE: March 8, 1979.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer, Assistant Director for Policy and Program Administration, Education and Rehabilitition Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420 (202-389-2092).

SUPPLEMENTARY INFORMATION: This publication contains DVB Circular 22-79-6, and Appendixes A through E of that circular. The circular and its appendixes deal with the policy and procedures for use in considering whether an educational institution may be held liable for an overpayment of educational assistance made to a veteran or eligible person. This circular and appendixes have been distributed through normal channels to interested persons.

The circular is based on § 21.4009, Title 38, Code of Federal Regulations and the recommended procedure in school liability cases which was published on pages 2635 through 2637 of the **Federal Register** of January 18, 1978. The public was given 30 days in which to comment on the recommended procedure. Thirty-one persons submitted comments.

Seventeen persons commented to the effect that either the Committees on School Liability or the School Liability Appeals Board would be unduly biased in favor of the Veterans Administration. However, in writing the circular it was decided to retain the procedure for determining the composition of both the committees and the Board. The circular allows a school to challenge members of a Committee on School Liability whom it thinks would be biased; provides for persons to be on the committee who may be unfamiliar with the education procedures of the Veterans Administration; and prohibits persons with conflicts of interests from serving either on the committee or on the School Liability Appeals Board. This should eliminate bias on these bodies.

Four persons commenting thought the chairperson of the hearing panel was given too much opportunity to bias the hearing through the power to determine what evidence is admissible and the power to restrict the number of witnesses. They made many suggestions designed to overcome this perceived bias. These included various suggestions on admitting evidence and calling withnesses. The circular, however, retains the pertinent rules from the recommended procedure.

Generally, formal rules of evidence are not imposed in an administrative proceeding. The Veterans Administration believes that like other administrative proceedings, those contained in this circular are of such a nature that it would not be appropriate to impose formal rules of evidence. Furthermore, since the rules that are in the circular apply equally to both parties, no inherent danger exists that the application of the rules will be prejudicial to either the Government or the school.

Four persons suggested that the Veterans Administration be given time limits within which to complete the actions required of it. While there is some merit in this suggestion, the Veterans Administration believes that the persons making the decisions should have as much time as is necessary to make sure that the decisions are proper.

One person objected to the entire recommended procedure, because he interprets section 1785, title 38, United States Code as requiring a Federal court to conduct a *de novo* review before a school can be held liable for an overpayment. This section allows for collection of debts "in the same manner as any other debt due the United States." Furthermore, section 1784 provides that no reporting fee payable to an educational institution can be offset against any liability for which the institution may be administratively determined to be liable under section 1785 unless the liability is not contested by the institution or is upheld by a final decree of a court of appropriate jurisdiction. Clearly, the Congress has allowed for administrative determinations of liability such as this circular provides for.

Two people objected to the fact that negligence was not defined in the recommended procedure. This is a valid objection. A discussion of negligence is included in Appendix C to the circular.

Another person called for a definition of "evidence of record." Inasmuch as all evidence presented at a hearing is made part of the record, the meaning of this term is self-evident. It does not need to be defined in the circular.

Two persons thought that the appeal procedure was designed so as to deliberately discourage its use. This is not the case. Every effort is made in the circular to provide a system which is responsive to the needs of the schools and to provide an adequate review on appeal of cases which have been properly developed.

One person suggested that the prehearing conference be presided over by an Administrative Law Judge. The Veterans Administration is exempt from the Administrative Procedure Act, and so is not required to use an Administrative Law Judge. The informal prehearing conference as set forth in the circular should be best for all parties concerned.

One person proposed allowing the school a number of peremptory challenges to hearing panel members. The Veterans Administration believes that by allowing the school an unlimited number of challenges to panel members on the basis of their qualifications, there is no need for peremptory challenges.

One person suggested that the Veterans Administration set forth which remedial action the adjudication officer be permitted to request a school to take when no liability is assessed, and what penalty the school would incur by not following the recommendation. These remedial actions may vary from school to school. Therefore, this portion of the recommended procedure has been removed from the circular. The Veterans Administration may tell a school if defects are found in the school's reporting system, but it may not tell a school what remedial action the school should take.

Two people objected to the rule that allows a recorded report of the hearing to be made. They claimed that this method was too unreliable. The Veterans Administration believes that a recorded report of the hearing will be sufficiently accurate for the purpose of making a transcript. However, in response to this objection the circular provides that a tape must be preserved until both the Veterans Administration and the school are satisfied that the transcript is accurate.

One person suggested that the Veterans Administration allow a school access to all of a veteran's records, if it is considering holding a school liable for an overpayment. A veteran's records are generally confidential under section 3301, title 38, United States Code and the Privacy Act of 1974. These records could include details of the veteran's disabilities, marital history, etc., which should not be revealed to a school. Nevertheless, section 552, title 5, United States Code permits a limited disclosure of information which is immediately related to a determination of liability. For example, specific items of information such as amounts of benefit payments must be disclosed. Each case will differ with respect to the amount necessary for a school to prepare a defense. Procedures exist both in the circular and independent of it which will allow disclosure of pertinent information necessary to a school.

Two persons commented that the entire procedure is too expensive. While both sides may incur expenses in this process, the Veterans Administration is obliged by statute to pursue overpayment, and the opportunity for hearing and appeal is a legally imposed procedure. It should be noted that schools are not required to pursue the procedure. If they are willing to satisfy the debt, minimal expense will be created.

This circular has been implemented and has been distributed through normal channels to interested persons.

Approved: November 14, 1979.

By direction of the Administrator.

Rufus H. Wilson,

Deputy Administrator.

[DVB Circular 22-79-6]

Department of Veterans Benefits,
Veterans Administration,
Washington, D.C.
March 8, 1979.

School Liability

1. *General.* This circular provides revised and consolidated procedures for school liability cases. It also serves to lift the moratorium on the processing of school liability cases imposed on April 14, 1977. In this circular, the terms "Adjudication Officer," "Veterans Services Officer," "District Counsel," and "Chief, Finance Activity," refer to VA field station officials and to the designees of such officials unless otherwise indicated; the term "school" means an "educational institution" as defined in 38 U.S.C. 1652(c) or a "training establishment" as defined in 38 U.S.C. 1652(e).

2. *Background.* a. Schools are required to report, without delay, the enrollment, interruption and termination of attendance for each veteran or eligible person enrolled under chapter 32, 34, 35, or 36 (38 U.S.C. 1784 and 1641). Appendix A of this circular describes school reporting requirements.

b. A school may be held liable for an overpayment to a veteran or eligible person if the overpayment was made as a result of (1) willful or negligent failure of the school to report excessive absences from a course, or discontinuance or interruption; or (2) false certification (38 U.S.C. 1785). Appendix B of this circular describes the extent of potential school liability for individual overpayments, and Appendix C provides guidelines that the VA will use in making overall determinations of school liability.

c. School liability may be recovered in the same manner as any other debt due the United States. However, any amount collected from a school shall be reimbursed if the overpayment is subsequently recovered from the veteran or eligible person (38 U.S.C. 1785). The VA may not withhold the annual school reporting fee unless liability is not contested or has been upheld by a final decree of a court of appropriate jurisdiction (38 U.S.C. 1784).

3. *Overview of New Procedures.* a. The new school liability procedures may be summarized as follows:

(1) *Identification of Potential School Liability Cases.* The Adjudication Officer will accumulate notices of school reporting errors referred by adjudicators or education clerks. (Par. 4)

(2) *Determination of Potential Liability.* The Adjudication Officer will periodically review the reporting errors for each school and make a determination as to potential liability; if potential liability is found, the record will be referred to the Chief, Finance Activity. (Par. 5)

(3) *Notice to School and VA Response.* The Chief, Finance Activity, will compute the amount of potential liability and notify the school of its rights under the new procedures. (Par. 6)

(4) *Committee on School Liability.* A panel of three from a newly created station Committee on School Liability will decide the case. The school may challenge the qualifications of proposed panel members. (Par. 7)

(5) *Role of District Counsel.* The District Counsel will present the VA case at the hearing and will be present at any prehearing conference; if no hearing is requested, this attorney will present the VA case directly to the panel. (Par. 8)

(6) *Prehearing Conference.* If a hearing is requested, a prehearing conference will be held unless specifically waived by the school. (Par. 9)

(7) *Hearing.* All hearings will be held under new hearing rules. (Par. 10)

(8) *Committee Panel Decision and Notice to School.* The Committee Panel will make its decision based on the evidence of record including the hearing transcript if a hearing was held. Entire veterans' claims folders will *not* normally be reviewed. (Par. 11)

(9) *Appellate Procedures.* A school may appeal an adverse decision to the School Liability Appeals Board in Washington. (Par. 12)

(10) *Disposition of Pending Cases.* Liability cases pending at the time of the moratorium must go through the new procedures. Final decisions issued prior to the moratorium are reviewable under certain conditions upon school request if such request is received within 30 days of the first demand letter issued after the moratorium is lifted. (Par. 13).

b. Appendixes to the basic circular provide additional information on special topics:

Appendix A—School Reporting Requirements
Appendix B—Extent of Potential School Liability for Individual Overpayments
Appendix C—Guidelines for School Liability Decisions
Appendix D—School Liability Procedures for the Finance Activity
Appendix E—Forms and Form Letters

4. *Identification of Potential School Liability Cases.*a. *General.*—When an overpayment is created, the adjudicator or education clerk will determine if all or part of the overpayment resulted from a late report or a false certification. See Appendix A for school reporting requirements.

b. *Potential School Liability.*—The adjudicator or education clerk will complete VA Form 22–8804a, Notice of School Reporting Error, whenever all or part of an overpayment resulted from a late report or false certification. (See sample of this form in Appendix E.) The original of VA Form 22–8804a will be referred to the Adjudication Officer and a copy will be filed on the left flap of the claims folder.

c. *No Potential Liability.*—The authorization action will be annotated "No Liability" and will be dated and initialed by the peson preparing the action.

d. *Compliance Survey.*—If reporting errors are initially identified by compliance survey, it will not be necessary to complete VA Forms 22–8804a on the cases identified in the survey report.

5. *Determination of Potential Liability.* a. *Review Procedures.*—(1) *Recordkeeping.*—The Adjudication Officer will maintain a file of the reporting errors noted for each school. This file will include all VA Forms 22–123 referred under the new procedure as well as form letters 22–8804a referred under the prior procedure. The file will also include other pertinent data about the school such as the size of the veteran enrollment and recent compliance survey reports.

(2) *Monthly Review*—The Adjudication Officer will make a monthly review of the reporting file for each school. The review period will generally extend back one year from the month the review is made. However, a period longer than one year may be reviewed if deemed appropriate. This would be particularly true for the initial review made for cases pending at the time the moratorium was imposed.

(3) *Retention of VA Form 22–8804a*—VA Form 22–8804a (and the prior FL 22–123) should generally be retained for a one-year period for review purposes. At the end of one year if there is no indication of potential school liability, the year-old notices will be annotated "AO—Review—No Liability" and referred to the claims folder for drop filing.

Note.—The completed FL's 22–123 accumulated prior to and during the moratorium period which are now over one year old may be disposed of after the first monthly review is made if potential liability is not assessed. (FL 22–123 has been discontinued.)

b. *Reporting Problem.*—Whenever a significant reporting problem appears to exist from the monthly review (or from a compliance survey report), the review will be extended to consider all known facts about the school which might have a bearing on school liability. (See Appendix C) In this connection, a review of COIN EDU 174, Report of VA Education Overpayments by Facility Code, may be useful. If circumstances warrant, a special compliance survey, liaison visit, or field investigation may be requested by the Adjudication Officer to obtain additional information. The District Counsel will always be consulted if there is likelihood of fraud.

c. *No Liability.*—If liability is not assessed, the Adjudication Officer will advise the Veterans Services Officer, where appropriate, of the defects found in the school's reporting system. The Veterans Services Officer will advise the school.

d. *Liability Assessed.*—If the Adjudication Officer determines that the evidence warrants a finding of potential school liability, a memorandum of such determination will be prepared. (The District Counsel will be consulted before any finding of potential liability is made. The final determination of potential liability shall be made by the Adjudication Officer.) Authority to sign this memorandum may *not* be delegated. Any supporting documents (e.g., compliance survey reports, error analyses, etc.) will be attached to the memorandum as will a VA Form 22–8804, Report of Potential School Liability, completed for each case in which the Adjudication Officer believes there is potential school liability. The memorandum and attachments will then be forwarded to the Chief, Finance Activity, with the claims folders.

Note.—If it appears that fraud is involved, no administrative collection will be pursued, pending a determination by the District Counsel, and the Department of Justice, if applicable. The Chief, Finance Activity, will be advised if fraud is indicated.

e. *Preparation of VA Form 22–8804.*—(1) *General*—VA Form 22–8804 will be used to determine the period of potential liability in individual veteran cases. The form is designed to accommodate multiple periods of liability in the same case and to provide the Finance activity with sufficent information to compute the amount of school liability. See Appendix E for a completed sample of this form. (In correspondence or flight school cases the form will not be used; instead, the required data will be referred to the Finance activity by memorandum.)

(2) *Need for Accuracy*—It is essential that VA Form 22–8804 be completed accurately. It is anticipated that all forms for a particular school will be completed on a "project" basis and only be education clerks or adjudicators, who have had special training in school liability procedures, especially Appendixes A and B of this circular.

(3) *Procedures*—The key issue in completing the form is the period of potential school liability (item 5F). This

period will usually be shorter than the period covered by the total overpayment. (See Appendix B for detailed instructions and examples.) Instructions for other specific items may be found on the reverse side of the form. The following general instructions for using this form will apply:

(a) VA Form 22–8804 will always be prepared with the claims folder. (Do not temporarily transfer—in folders from other stations for this purpose unless there are exceptional circumstances.)

(b) VA Form 22–8804 should *not* be completed in cases in which the overpayment for the liability period has already been recovered.

(c) The original of VA Form 22–8804 will be forwarded to the Finance Activity. (See subparagraph d above.)

(d) A copy will be initialed by the preparer and filed in the claims folder of the left flap.

(e) Once a school has been notified of its potential liability, no additional VA Forms 22–8804 may be referred for that school unless they are treated as a separate group of errors, in which case the notice procedure of par. 6 will apply.

6. *Notice to School and VA Response.*

a. *Initial Action.*—The Chief, Finance Activity, will review the record to determine the amount of liability. Any VA Form 22–8804 found to be inadequate will be returned to the Adjudication Officer for correction. VA Form 4–5295, Institutional Liability Computation Sheet, will be prepared for each case. Appendix D provides detailed Finance instructions for completing the computation sheet.

b. *Form Letter 4–334—Notice of Intent to Hold Institution Liable.*—When the record is considered adequate, and no fraud is indicated, the Chief, Finance Activity, will forward FL 4–334 and attachments to the school by certified mail, return receipt requested. (The District Counsel will be furnished a copy of this package.) The letter (FL 4–334) will notify the school of the intention to hold the school liable. The attachments (VA Form 4–5237, VA Form 22–8804, and VA Form 4–5295) will identify the students overpaid and will set out in each student's case the actions or omissions by the school which resulted in school liability being assessed under 38 U.S.C. 1785. (See Appendix E for samples of these forms and form letters.) Applicable Federal statutes and regulations will be cited by statute and regulation number. Form letter 4–334 will include the following information about the new school liability procedures:

(1) The school will have the option of a hearing or submission of evidence directly to the Committee on School Liability without a prior hearing.

(2) If the school wishes to exercise its hearing option, a prehearing conference will be scheduled, unless the school specifically waives the prehearing conference.

(3) The purpose of the prehearing conference is to give the school and its legal representatives, if any, an opportunity to review and discuss the record upon which the assessment of liability was based; to discover and consider persons whom they wish to call as witnesses at the hearing; and to set a mutually convenient date for the hearing. The list of such witnesses must be furnished to the VA at the prehearing. The VA likewise will submit to the school a list of witnesses it will call.

(4) If the school wishes a hearing with no prehearing conference, the school will be requested to submit a list of proposed witnesses for the hearing as well as any documentary evidence.

(5) The school will be advised that the final decision will be made on the evidence of record, if additional evidence or a hearing request is not received within 30 days of the date of receipt of FL 4–334. The school will be requested to reply to the Chief, Finance Activity, by certified mail.

c. *Action Upon School Response.*—The Chief, Finance Activity, will notify the officials indicated below who will take the required actions:

(1) *School Requests Hearing and Prehearing Conference.*—The Chairperson of the Committee on School Liability will select the hearing panel members. (See par. 7.) The Adjudication Officer will arrange for the prehearing conference. (See par. 9.) The District Counsel will be present at the prehearing conference. (See par. 8.)

(2) *School Waives Prehearing Conference and Requests Hearing Only.*—The Chairperson of the Committee on School Liability will select the hearing panel members. (See par. 7.) The Adjudication Officer, after consultation with the District Counsel, will notify the school of the time and place of the hearing. This notice will include a list of any VA hearing witnesses and a list of the three proposed hearing panel members (and two alternates) with a brief statement of the qualifications of each and of the right to challenge. (See par. 7.) The District Counsel will present management's case at the hearing. (See par. 8.)

(3) *School Submits Evidence but Waives Both Hearing and Prehearing Conference.*—The Chairperson of the Committee on School Liability will select a panel of three to decide the case. (See par. 7.) The District Counsel will present management's case to the panel. (See par. 8.)

(4) *School Does Not Reply to FL 4–334.*—If the school does not reply within 30 days, follow the procedure in subparagraph (3) above.

7. *Committee on School Liability.* a. *General.*—A standing Committee on School Liability will be established at each Regional Office and a three-member panel from this Committee will make the decision as to liability.

b. *Committee Composition.*—The Committee on School Liability will be composed of a chairperson who must have knowledge of education claims procedures and such number of committee members as shall be necessary. The chairperson and the committee members shall be designated by the Director of the regional office and shall serve at the discretion of the Director. Neither the chairperson nor any committee member shall be below a GS–9 grade level. There shall be a sufficient number of persons with backgrounds in the adjudication of education claims to meet the requirements for panel composition as stated below.

c. *Panel Composition.*—(1) The Committee chairperson shall designate a panel of three members, one of whom shall be designated chairperson, to decide cases of school liability. The chairperson of the panel shall conduct any hearing if a hearing is held. (When feasible, this person will have had legal training.) At least two panel members shall have knowledge of education procedures and at least one of these two members must be from the Adjudication Division. The third panel member must be from outside the Adjudication Division. (Two alternate panel members will also be designated for each case.)

(2) No person will serve on a panel who is from the Finance activity, District Counsel or who was involved in the investigation or decision-making regarding the determination of potential liability. However, this will not prohibit adjudicators who may have prepared VA Forms 22–8804, 22–8804a (or the prior FL 22–123) from serving on the panel.

d. *Challenges to the Hearing Panel.*—The school will be furnished the names and a brief resume of the qualifications of each designated panel member. This will be done at the prehearing conference or by mail if there is no prehearing conference. The school will be advised that it has the right to challenge for good cause the qualifications of any panel member; that any challenge must be submitted in

writing and received by the regional office Director before the hearing date; and that the challenge and the Director's disposition thereof will be made a part of the record.

8. *Role of District Counsel.* a. *General.*—The District Counsel will present the Agency's case at the hearing if a hearing is held. If a hearing is not held, the District Counsel will either prepare a written submission or orally present the evidence for the Committee Panel to consider. The District Counsel will also be present at any prehearing conference and will assist with framing the issues to be heard at the hearing.

b. *Preparation of Exhibits.*—The Adjudication Officer will assist the District Counsel in preparing exhibits for the hearing or, if no hearing, for the Committee Panel to consider directly. The exhibits should include:

(1) Copies of pertinent school reports (front and back where necessary) from VA claims folders. (The originals of these reports will be retained in the claims folders.)

(2) FL 4–334 and VA Form 4–5237.

(3) The VA Forms 22–8804 and 4–5295 for individual cases.

(4) Any other pertinent documents.

Note.—Entire claims folders will not normally be reviewed by the Committee Panel nor by the School Liability Appeals Board. Therefore, the exhibits must be prepared carefully and thoroughly.

9. *Prehearing Conference.* When a hearing is requested, a prehearing conference will be conducted at the regional office unless the prehearing is specifically waived by the school.

a. *Notice to School and District Counsel.*—The Adjudication Officer will notify the school by certified letter, return receipt requested, of the date, time, and place, of such conference. The District Counsel will be notified at least one week prior to the prehearing date.

b. *General Procedures.* (1) The Adjudication Officer will designate one person who has knowledge of educational procedures to meet with the school representative and the District Counsel to review and discuss the record upon which potential liability is based. The Adjudication representative shall not participate in any later Committee Panel decision. However, this person shall have authority, at this stage of the proceedings to recommend modifying or rescinding the initial determination, subject to the Adjudication Officer's approval. The Chief, Finance Activity, must be advised of any change in the initial determination.

(2) In reviewing and discussing the record, the school representative will be given the opportunity to review those documents upon which the finding of potential liability was based. Entire veteran claims folders will not be reviewed by the school representative.

(3) The school will be advised of its right to challenge panel members as described in paragraph 7d. The list of panel members and their qualifications will be obtained from the Committee Chairperson prior to the prehearing.

c. *Conclusion of Prehearing Conference.*—Every effort will be made to reach agreement at the prehearing on factual points such as the date reports were received so that the hearing which follows can concentrate on the more basic issues of disagreement. At the conclusion of the prehearing conference, a brief memorandum of understanding will be prepared by the Adjudication representative listing the basic unresolved issues; witnesses to be called; hearing date, and any other pertinent data. This memorandum should be signed by the District Counsel and the school representative and should become a part of the record.

10. *Hearing.* The hearing shall be conducted in accordance with the rules discussed below:

a. *Attendance of Witnesses.*—Each party shall be responsible for the appearance of witnesses, production of records, and the costs in connection therewith, necessary for the hearing. VA employees called as witnesses shall be required to appear in accordance with existing regulations.

b. *Hearing Rules.—Rule 1*—The chairperson of the panel shall be in charge and responsible for conducting the hearing including administration of oaths or affirmations, which shall be required of all witnesses, and decisions as to admissibility of evidence.

Rule 2—The District Counsel will serve as the VA management representative and shall present the Government's case.

Rule 3—Rules of evidence applicable in judicial proceedings will not apply. Any written or oral testimony deemed to be of probative value will be admissible. Secondary or hearsay evidence will not be excluded on that basis alone. However, evidence or testimony which is irrelevant, immaterial, cumulative or unduly argumentative or repetitious, may be excluded. The chairperson may limit the number of persons appearing as witnesses. Such limitation must be exercised within reason.

Rule 4—Any panel member, the school representative or the management representative shall have the right to question any witness called for the hearing. Each party shall have the right to cross-examine any witness.

Rule 5—Any objection to a ruling by the chairperson regarding the inadmissibility of testimony, documentary evidence, or challenge to a witness, will be made a matter of record together with the substance, in brief, of the testimony intended or other evidence concerned. Documentary evidence objected to may be accepted for filing and future reference.

Rule 6—A verbatim stenographic or recorded report of the hearing shall be made by the Agency and the stenographic notes or tapes preserved until the transcript is accepted as accurate by both parties. The transcript shall become a permanent part of the record, and a copy, if requested, shall be furnished free of cost to the school by certified mail, return receipt requested. The school may utilize a reporter of its choosing, at its expense. If the school wishes its transcript to become part of the record, a copy must be furnished to the Agency free of cost.

Rule 7—All exhibits shall be identified by the chairperson in the order of introduction (numerically for the Agency exhibits and alphabetically for exhibits introduced by the school). All exhibits shall be attached to the original of the transcript. True copies of exhibits, if requested, shall be made and attached to the copy of the transcript furnished to the school.

Rule 8—The hearing shall be conducted in an orderly manner with dignity and decorum. The conduct of panel members shall be characterized by fairness, impartiality, and cooperativeness. The chairperson shall take such action as may be necessary to maintain decorum.

Rule 9—At the close of the hearing, the chairperson shall inform both parties that they may submit additional written arguments within 10 workdays of the conclusion of the hearing. The chairperson shall also inform the school that the notice of the decision and the appeal rights, if applicable, will be furnished by the Chief, Finance Activity.

Rule 10—The Panel shall have no authority to decide a challenge to the constitutionality of statutes and regulations which provide the basis for assessment of school liability. In the event there is such a challenge, the Panel will continue their general duties with respect to hearing the evidence and deliberations and will document the record to show that a constitutional challenge was made, without making any ruling so that such matters will be decided only at the appeal level pursuant to paragraph 12e.

11. *Committee Panel Decision and Notice to School.* a. *Decision.*—(1) The Committee Panel will convene to

consider its decision no earlier than 10 workdays after the conclusion of the hearing, if a hearing was held, to allow time for the parties to submit additional written arguments.

(2) The evidence, including the hearing transcript, will be considered under the guidelines of Appendix C of this circular.

(3) The decision shall be by majority and shall either affirm, modify or reverse the finding of potential school liability made by the Adjudication Officer. The Committee Panel must clearly and fully state its findings and conclusions, and the reasons and basis for the decision. Applicable Federal statutes and regulations must be cited by statute and regulation number. The general format for Statements of the Case (M21-1, chapter 18) may be used.

(4) If the Committee Panel affirms liability but modifies the period of liability for individual students, a revised VA Form 4-5237 should be attached to the decision showing what changes were made. Revised VA Forms 22-8804 and 4-5295 will also be furnished for the affected students. The panel will request the Chief, Finance Activity, to prepare VA Form 4-5295 and VA Form 4-5237 whenever recomputation of liability is necessary.

(5) The chairperson of the full committee will review the proposed panel decision and may propose corrections or editorial improvements but not change as to the decision itself. The original of the final decision will be referred to the Chief, Finance Activity.

b. *Notice to School.*—(1) The Chief, Finance Activity, will prepare a notice letter to the school enclosing the decision. This notice letter will be sent by certified mail, return receipt requested. Copies with the decision enclosed will be furnished to the Director of the regional office, the District Counsel, the Adjudication Officer and the Chairperson of the Committee on School Liability. If liability is found, the letter will demand payment and will include notice of appellate rights and procedures, stating the 60-day period for such appeal.

(2) If the school does not exercise its appeal rights within the appeal period, the Panel decision will become the final Agency decision. The original notice letter to the school will include this information.

c. *Records.*—The Chairperson of the Station Committee on School Liability will be responsible for maintaining a complete record for each school liability decision. This should include copies of all correspondence with the school.

12. *Appellate Procedures.* a. *Right of Appeal.*—(1) If the school disagrees with the Committee decision, appeal may be taken to the School Liability Appeals Board, which shall be located in the Central Office of the Veterans Administration in Washington, D.C., as a staff element of the Chief Benefits Director's office.

(2) Appeal may be instituted by a letter to the Chief, Finance Activity, indicating disagreement with the decision and setting forth the alleged errors of fact and law.

(3) The appeal must be received in the VA within 60 calendar days from the date of the notice letter to the school. An additional reasonable period, generally not to exceed 30 calendar days, may be allowed if requested, within which to perfect the appeal. The Chairperson of the Committee on School Liability will determine if an extension may be granted.

b. *Certification of Appeal.*—(1) The Committee Chairperson will review the record prior to submission to the Appeals Board and certify by memorandum that the record upon which school liability is based is complete and that all procedural requirements have been met.

(2) The Chief, Finance Activity, will notify the school that the appeal has been certified and that witnesses are not allowed to testify on appeal but that the school has the right to have its representative appear before the Appeals Board. The school will be advised to write to the following address if such representation is desired: Veterans Administration Central Office, School Liability Appeals Board (20E), 810 Vermont Avenue, NW., Washington, D.C. 20420.

(3) The Chief, Finance Activity, will forward the complete school liability record to Central Office. Individual claims folders will not be forwarded unless requested by the Appeals Board. In such cases the claims folders will be prepared for submission as follows:

(a) A cover sheet or list of the cases submitted, including name and file number, should be included with each submission.

(b) A complete VA Form 60-7216a, Request for and/or Notice of Transfer of Veterans Records, should be attached to each claims folder. Item 14, "Reason for Transfer," will show "Appeal of School Liability" and will include the name of the school involved.

(c) Folders should be sent to the Chairperson, School Liability Appeals Board (20E).

c. *Composition of the School Liability Appeals Board.*—The School Liability Appeals Board shall consist of a chairperson and board members appointed by the Chief Benefits Director. Each appeal shall be considered by a panel of two members designated by the chairperson. The chairperson will exercise supervision and control over Board functions and will participate in decisions if the two-member panel does not reach a unanimous decision. A Board member will be designated to act in the absence or disqualification of the chairperson.

d. *Appellate Procedures.*—Review is limited to the issues raised by the school and shall be on the record and not de novo in character. Witnesses will not be permitted to testify on appeal. The school and the Government shall have the right to have a representative appear before the panel and present oral argument regarding their respective positions. Alternatively, the statement of alleged errors of fact and law submitted by the school may constitute appearance before the Board. If the Board perceives error in an area not addressed in the appeal, it shall have authority to correct such error. The Board may not increase the amount of liability except through the remand procedure of subparagraph i below.

e. *Restrictions on Powers of the Board.*—The Board shall have no authority to decide a challenge to the constitutionality of statutes and regulations which provide the basis for assessment of school liability. In the event there is such a challenge, the issue or any other legal question raised, shall be referred to the General Counsel for an opinion. All other issues raised by the appeal will be considered and decided by the Board.

f. *Disqualification of Members.*—A member of the Board shall be disqualified if such member was employed in the office of original jurisdiction prior to appointment as a member of the Board, or if there are other circumstances which give the impression of bias either for or against the appellant. Such disqualification shall be made a part of the record. If a member is disqualified, the chairperson shall appoint a replacement.

g. *Decision on Appeal.*—The Board will decide each issue on appeal by affirmation, reversal, or modification of the station Committee decision or by remand of the case to the station Committee if clarification or further development is deemed necessary. The decision shall be in writing, signed by the members who participated in the decision, and shall set forth specifically the issues, findings of fact and conclusions of law, and the reason for the Board's decision, which shall be the final determination of the Agency as to school liability. Any dissenting member

may decline to sign and may submit a dissenting decision.

h. *Notice of Board Decision.*—The Board will promptly notify the school of its decision by certified mail, return receipt requested, and will include a copy of its decision with the notice letter. The letter will include a statement that the Board's decision is the final administrative decision of the Agency. Copies of the transmittal letter and the Board's decision will be furnished to the Station Director, the District Counsel, the Chief, Finance Activity, the Adjudication Officer and the Chairperson of the station Committee on School Liability, simultaneously with the release of the decision to the school. If liability is upheld, the Chief, Finance Activity, will then institute collection action, which will be suspended if suit is filed by the school or the Government.

i. *Case on Remand.*—(1) If the board remands the case to the station Committee on School Liability for further clarification or development, the District Counsel and the school shall be notified and furnished a copy of the remand. The Committee Panel in the office of original jurisdiction shall have the authority to modify or rescind its earlier decision, including increasing the amount of school liability.

(2) The following procedures will apply:

(a) If the Committee Panel affirms the original decision, the case will be returned to the Appeals Board under the procedures in subparagraph b above.

(b) If the Committee Panel rescinds the original decision, the chairperson of the Committee will notify the Chief, Finance Activity, who will notify the school as provided in paragraph 11b.

(c) If the Committee Panel partially modifies the liability in the school's favor, the school will be requested to advise the Committee within 30 calendar days if it wishes to continue its appeal.

(d) If the Committee Panel increases the school's liability, the school shall be entitled to the hearing procedure as provided in the case of initial determinations. (See par. 6.) Such procedure shall be limited to the issue of increased liability.

(3) The Chief, Finance Activity, will inform the school of the Committee's decision.

(4) Cases returned to the Appeals Board shall be considered by the original panel, if available, and a decision rendered. If either member of the original panel is not available, a substitute shall be designated by the chairperson.

13. *Disposition of Pending Cases.* a. *General.*—As noted previously, there has been a moratorium on the processing of school liability cases since April 14, 1977. The purpose of this section is to provide instructions for handling school liability cases which are at various processing stages at the time this circular is published.

b. *Cases With Final Decisions.*—(1) *No General Review.* The VA will not conduct a general review of final Agency decisions. Final Agency decisions are defined as:

(a) Final decisions issued by Central Office, or

(b) Regional office decisions if:

1 The 60-day period for requesting Central Office review expired before April 14, 1977, and

2 The school did not request a review within the 60-day period.

(2) *If Error is Alleged.* Within 30 days from the date the first demand letter is issued after the moratorium is lifted, the school may request that the VA reconsider any substantive errors that are alleged to have been made previously in determining the school's liability. The request shall clearly state and document the specific substantive errors that are alleged. Mere "general" requests for review are not adequate. When making the request, the school shall specify whether it merely wishes the VA to consider the allegations of substantive error on the existing record or whether it desires to have these matters determined in accordance with the procedures described in paragraphs 5 through 12 of this circular. If the first option is chosen by the school, the case will be referred to the Chairperson of the Committee on School Liability who will convene a panel of three to decide the case in accordance with paragraph 11. If the latter option is chosen, the case will be handled in accordance with paragraphs 5 through 12. No case will be reconsidered if collection action has already been completed.

c. *Cases Pending at the Time of the Moratorium.*—All cases that did not have a final Agency decision at the time the moratorium was imposed must go through the complete new procedure as described in paragraphs 5 through 12.

14. *VA Management Responsibilities.* a. *Implementing New Procedures.*—Station Directors are responsible for appointing the members of the Committee on School Liability (par. 7) and for ensuring the necessary coordination of division activities required by this circular.

b. *Managing the Backlog.*—It is recognized that some stations have a considerable backlog of school liability cases and that the new procedures will be more expensive and time-consuming than the prior procedures. Each station must develop an appropriate plan to deal with the backlog within current personnel limitations. Schools will be notified as soon as possible of the status of their cases, recognizing that final disposition may take many months. Station responsibilities under 38 U.S.C. 1785 must always be balanced against all other responsibilities.

c. *Work Measurement.*—Adjudication divisions will report direct labor used on school liability as COW (Committee on Waivers) for AMIS purposes. The Finance Activity will follow paragraph 15 of appendix D. All other divisions should report direct labor school liability hours as "other measured hours."

Dorothy L. Starbuck,

Chief Benefits Director.

Appendix A—School Reporting Requirements

1. *General.* School reporting requirements for specific enrollment situations are found in the VA regulations (14,000 series) and DVB circulars. This appendix defines the period allowed for reporting changes in enrollment status to the VA. It also describes how the "last date of attendance" is to be determined. There is no substantive change in the reporting requirements which were in effect before the moratorium.

2. *Requirements for Reporting Enrollment Changes.* a. *Background.*—Since enactment of the GI bill, schools have been required to promptly report changes in the enrollment status of veterans and other eligible persons receiving educational assistance. However, the period allowed for reporting changes in enrollment status changed on August 6, 1975, based on a modification of VA Regulation 14203.

b. *Reporting Requirements in Effect before August 6, 1975.* (1) An IHL (institution of higher learning) was allowed 30 days from the end of the term to report changes in enrollment status which occurred before August 6, 1975, if all of the following conditions were met:

(a) The school was not required to maintain attendance records;

(b) The student did not notify the school of the change in his/her enrollment status; and

(c) The school did not otherwise become aware of the change until the end of the term.

(2) In any situation not covered by subparagraph (1) above, the school had 30 days from the date of the change in status to report the change to the VA.

c. *Reporting Requirement in Effect Since August 6, 1975.* The basic requirement is that reductions in

training time and terminations be reported within 30 days after the change in enrollment status occurs. This 30-day rule is qualified in the following ways:

(1) *Changes Near the Beginning of the Term.* For reductions and terminations in training which occur during a school's "drop" period (not to exceed 30 days from the beginning of a term or other enrollment period), the 30-day reporting period will run from the last day of the "drop" period.

Example: A term begins on September 15, 1977 and there is a "drop" period which ends on October 7, 1977. A reduction in training occurs on September 25, 1977. The school would have until November 6, 1977 to submit a timely report.

(2) *Failure to Reenroll.* For students whose enrollment was certified for the school year, and the student attends through the end of one term but fails to return the following term, the school must report the terminated enrollment within 30 days of the last officially scheduled registration date for the subsequent term.

Example: A student was originally certified for the 1977–78 school year; he or she completes the term ending January 20, 1978 but fails to reenroll for the term beginning February 6, 1978. The last officially scheduled registration date for the second term is February 10, 1978. The school would have until March 12, 1978 to submit a timely report.

(3) *Unsatisfactory Progress.* In general, a school must report unsatisfactory progress within 30 days from the date on which progress becomes unsatisfactory. However, where unsatisfactory grades are involved, the 30-day period will begin from the date the responsible school official first received in the final report indicating that approved satisfactory progress standards have not been met. In no event will a report of unsatisfactory progress (because of unsatisfactory grades) be considered timely if received more than 60 days after the end of the applicable term.

Example No. 1: A student completed a term on January 25, 1978. The school received the final grade reports on March 1, 1978 which showed that the veteran's progress was unsatisfactory as of January 25, 1978. The school would have until March 26, 1978 to submit a timely report.

Example No. 2: A veteran was enrolled in a nondegree course from September 4, 1978, to December 1, 1978. The school has an attendance policy, approved by the SAA (State approving agency), that provides for dismissal after 10 unexcused absences. The 11th unexcused absence in this case was on October 25, 1978, although the veteran continued to attend classes after the date. The school would have until November 24, 1978 to submit a timely report of unsatisfactory progress.

3. *Determining the Last Date of Attendance.* Schools must report the last date of attendance to the VA when a veteran or eligible person terminates enrollment in residence training. Likewise, schools must report the last day of attendance in particular residence courses when the veteran or eligible person reduces training time but continues in school (VAR 14135(E)(2)(a). (For changes in independent study courses, the school need only report the official date of change in status under the practices of the institution (VAR 14135(E)(2)(b).

a. *College-Level Courses.* Even though *daily* attendance records are not required, the school must establish an adequate reporting system to detect enrollment changes soon after they occur and to provide timely reports to the VA. When an enrollment change occurs, any of the following methods may be used to determine the last date of attendance: (1) Attendance records; (2) grading reports; (3) last date on which examination or other papers filed; (4) last day of activity in the instructor's records; or (5) a statement from the student as to the last day of his or her attendance.

b. *Non-College-Degree Courses.* The last day of attendance shown in the official attendance records must always be used in reports to the VA.

Appendix B—Extent of Potential School Liability for Individual Overpayments

1. *General.* A school may be potentially liable for an overpayment directly resulting from a false certification or failure to report change in status. This appendix provides instructions for determining the extent of potential school liability for the overpayment of individual veterans or eligible persons. Note: The decision as to whether school liability will actually be assessed or not will always be made under the guidelines of Appendix C.

2. *False Certification Cases.* False certification includes both intentional and unintentional false certification as described in Appendix C. When an overpayment results from a false certification, the school will be potentially liable for any overpayment which occurred prior to the date the VA first learned of the false certification.

a. *Adjudication Procedures.* Adjudication should report the entire period covered by the false certification as the period of potential school liability, item 5F, on VA Form 22–8804.

b. *Finance Procedures.* Finance will compute the actual amount of potential liability on VA Form 4–5295. This computation will be in accordance with the instructions in Appendix D and will take into account the actual payment data in the case.

3. *Late Report Cases:* This includes the categories "willful failure to report" and "negligent failure to report" described in Appendix C.

a. *Payments Excluded From Liability.* When late reports result in overpayments, the school will *not* be potentially liable for the following:

(1) Those amounts paid (checks actually released) prior to the end of the allowable 30-day reporting period (see par. 2 of Appendix A).

(2) Those amounts paid (checks actually released) after the report of change in status is received in the VA.

(3) The amount of an advance payment at the beginning of an enrollment period.

(4) The amount of any additional overpayment created from the date of withdrawal back to the beginning of a term under 38 U.S.C. 1780(a)(4). (See DVB Circular 20–76–84, Appendix M.)

b. *"Critical Period" Defined.*—The "critical period" is the period starting the day after the end of the 30-day reporting period and ending on the day notice of the change in status is received in the VA. The "critical period" is needed to compute the period of potential liability as described in subparagraph c below.

c. *Period of Potential School Liability—Late Reporting.*—In cases of late reporting, Adjudication will determine the period of potential liability for each enrollment period as follows:

(1) Determine approximately when the award for the enrollment period was referred to DPC Hines for computer processing.

(2) Determine what payments were made based on this award during the "critical period" and determine the period covered by these payments.

(3) Determine the period of school liability from the period identified in subparagraph (2).

Note.—Adjudication will determine the period of potential liability by examining the award document and projecting what payments should have been made during the "critical period." Finance will be responsible for computing the actual amount of liability and verifying (from microfilm records, if necessary) when payments were actually made.

4. *Examples.* The examples below are given to illustrate how the period of liability should be computed in various cases of late reporting. (Note that the prepayment method of payment was

changed to postpayment on June 1, 1977.) In all cases it is assumed, unless otherwise stated, that the award was processed near the beginning of the term and that regular monthly payments were made.

a. *Withdrawal Near Beginning of Term.*—Enrollment Period: September 5, 1977, thru June 9, 1978 (non-advance-payment case).

Last Day of "Drop" Period: September 25, 1977.

Withdrawal: September 21, 1977.

End of 30-day period: October 25, 1977.

Notice Received in VA: November 15, 1977.

Critical Period: October 26, 1977 through November 15, 1977.

Period of Potential School Liability: October 1, 1977 to October 31, 1977 (i.e., the period covered by the payment due on November 1, 1977).

Reason: School may be liable for the check due on November 1, 1977, since this is the only payment during the "critical period."

b. *Advance Payment Case.*—Same facts as in subparagraph a above only an advance payment was issued at the beginning of the term.

Period of Potential School Liability: None.

Reason: No check was issued in the "critical period" because of the advance payment. The first check after the advance payment would have been due on December 1, 1977.

c. *Retroactive Payment Case.*—Same facts as in subpar. a above, only the award was not processed to DPC Hines until November 2, 1977. The first check was issued during the "critical period" and covered the period September 15 to October 31.

Period of Potential Liability: September 22, 1977 to October 31, 1977.

Reason: School may be liable for the entire overpayment made during the "critical period."

d. *Case With Existing Accounts Receivable.*—Same facts as in subpar. a above, only an accounts receivable of $1,000 existed at the beginning of the term. No checks were actually issued in the "critical period" but the accounts receivable was reduced by offset.

Period of Liability: October 1, 1977 to October 31, 1977.

Reason: The existence of an accounts receivable has no bearing on the determination of school liability. In effect, a school may be held liable for erroneous credits to a veteran's account as well as for erroneous check amounts actually issued.

e. *Withdrawal—Notice Over 30 Days But No Liability.*—Enrollment Period: February 6, 1978 to June 9, 1978.

Withdrawal: April 10, 1978.

End of 30-Day Period: May 10, 1978.

Notice Received in VA: May 20, 1978.

Critical Period: May 11, 1978 through May 20, 1978.

Period of Potential Liability: None.

Reason: No payments were made during the "critical period."

f. *Failure to Reenroll.*—Enrollment Period: September 2, 1976 thru June 10, 1977 (Prepayment case).

Failed to Reenroll For.

Term Beginning: February 6, 1977.

Late Registration Date: February 11, 1977.

End of 30-day period: March 13, 1977.

Notice Received: May 15, 1977.

Critical Period: March 14, 1977 through May 15, 1977.

Period of Potential Liability: April 1 through May 30 (i.e., the period covered by payments due April 1, 1977 and May 1, 1977).

Reason: Notice of failure to reenroll not received within 30 days from the late registration date for the new term.

g. *Reduction and Withdrawal.*—Enrollment Period: Full time from January 5, 1976 to May 2, 1976 (Prepayment case).

Reduction to ½ time: February 26, 1976.

Withdrawal: March 27, 1976.

End of 30-day period: March 28, 1976 for reduction and April 26, 1976 for withdrawal.

Notice of Both Changes: April 16, 1976.

Critical Period: March 29, 1976 through April 16, 1976.

Period of Potential Liability: April 1, 1976 to April 30, 1976 (i.e. the period covered by payment due April 1) for difference between the full-time rate and the one-half-time rate only. Item 5H of VA Form 22-8804 will be completed to show one-half-time training.

Reason: No school liability can be considered for the withdrawal since notice of the withdrawal was timely filed. However, the school is potentially liable for the overpayment resulting from the training time change since this report was not timely filed. The period of liability is from April 1, 1976 through April 30, 1976. The extent of liability for this period is the difference between the full-time and the one-half-time rates although the entire payment for April is an overpayment.

h. *Reporting Requirements Prior to August 6, 1975.*—Enrollment Period: September 2, 1974 through August 15, 1975. (Reporting requirements prior to August 6, 1975 apply.)

Withdrawal: September 28, 1974 (no official withdrawal or other notice and school (IHL) keeps no attendance records).

End of Term: December 18, 1974.

End of 30-day period: January 17, 1975.

Notice to VA: March 10, 1975.

Critical Period: January 18, 1975 through March 10, 1975.

Period of Potential Liability: February 1, 1975 through March 31, 1975 (i.e., the period covered by payments due February 1, 1975 and March 1, 1975).

Reason: The facts in this situation fall under reporting requirements in effect before August 6, 1975. The 30-day allowable reporting period ended January 17, 1975. The school may be liable for benefits the veteran received after January 17, 1975 and before March 10, 1977 (i.e., for payments due on February 1, 1975 and March 1, 1975).

i. *Multiple Adjustments.*—(Prepayment Case.) Enrollment Period: September 12, 1976 through June 15, 1977 at Full Time.

Reduction to ½ time: November 15, 1976.

Resumption to FT: February 6, 1977.

Withdrawal: March 5, 1977.

End of 30-day period for reduction: December 15, 1976.

End of 30-day period for withdrawal: April 4, 1977.

Notice of all changes: April 15, 1977.

Critical Periods: December 15, 1976 thru April 15, 1977 and April 5, 1977 thru April 15, 1977.

Period of Potential Liability: January 1, 1977 to February 6, 1977 (i.e., the period covered by the payment due January 1, 1977 and part of the period covered by the payment due February 1, 1977.)

Reason: The school may be liable for part of the overpayment resulting from the reduction in training since notice of the reduction was late. There can be no liability resulting from the withdrawal, even though notice was late, since no payments were due in the period April 4, 1977 to April 15, 1977.

5. *Failure to Report and False Certification Distinguished.* Difficulty occasionally arises in distinguishing between failure to report and false certification. The distinction is important since the period of liability will be greater in false certification cases. The following examples should be helpful in making the distinction:

a. A school has a fall term from September 5, 1976, through December 10, 1976. There is a 20-day "drop" period. The school submitted an enrollment certification signed September 10, 1976, indicating that a student enrolled September 5, 1976 for the fall term. On November 15, 1976, the school furnished notice that the student registered but failed to attend. This is a case of failure to promptly report a change in status, not of false certification. The period of potential liability would be from November 1 to November 30.

b. Assume the same situation as in subparagraph a above except that the initial enrollment certification was signed September 30, 1976, after the end of the "drop" period. This is a case of false certification. The school would be potentially liable for the entire overpayment from September 5, 1976 through November 30, 1976.

Appendix C—Guidelines for School Liability Decisions

1. *General.* The guidelines in the appendix will be used whenever school liability is considered by the Adjudication Officer, the station Committee on School Liability, or the School Liability Appeals Board. It must be emphasized that one overall decision will be made with respect to all of the individual student cases for a particular school which have been identified for potential school liability.

2. *Discussions of Key Concepts.* There are basically three concepts in 38 U.S.C. 1785 under which a school may be held liable. They are as follows:

a. *Willful Failure to Report.*—This refers to intentional failure or refusal by the school to make required reports of enrollment changes. It also includes intentional failure or refusal to make timely reports. To hold a school liable under this concept, the evidence must show with reasonable certainty that there was an intentional failure on the part of the school to make required reports or to make timely reports. (Note: If fraud is indicated, the District Counsel must first be consulted before any school liability decision is made.)

b. *Negligent Failure to Report.*—This refers to a negligent failure to make reports of enrollment changes or a negligent failure to make such reports in a timely manner. See paragraph 3 below for guidelines as to what constitutes negligent reporting.

c. *False Certification.*—This is a certification that is contrary to the actual facts. The falsity may involve enrollment dates, hours of training, or any other item certified. There are two types of false certification as follows:

(1) *Intentional.*—Such cases should initially be referred to the District Counsel. If the District Counsel returns the case with an opinion that there is no violation of Federal criminal statutes or if the U.S. attorney declines prosecution, school liability for false certification may then be considered. To hold a school liable, the evidence must show with reasonable certainty that the school intentionally made a false certification.

(2) *Unintentional.*—School liability for unintentional false certifications may be considered when the school appears to have been *negligent* in making accurate reports to the VA. See paragraph 3 below for a discussion of negligent reporting.

3. *Guidelines When Negligence is the Issue.* In many cases, the fundamental issue to be decided is whether or not the school negligently failed to report or timely report changes in enrollment or negligently submitted false (erroneous) certifications. No simple error rate can be given which would define negligent reporting. Instead, it must be determined if the school failed to exercise reasonable care in making timely and accurate certifications to the VA. All relevant factors must be carefully considered including the following:

a. *Allowance for Occasional Clerical Error or Occasional Administrative Delay.*—(1) Consider the number of reporting errors compared to the number of VA students enrolled over a given period; and

(2) If data are available, consider the number of reporting errors compared to the approximate number of required reports of a particular type over a given period (for example, the number of reports of reduced training or termination that were late compared to the approximate number of such reports that were required).

b. *The School's Past Reliability in Reporting.*—Consider the findings of past compliance surveys and the school's response to any reporting deficiencies that were brought to its attention.

c. *The Adequacy of the School's Reporting System.*—A school will be considered negligent if it does not establish a reporting system that can produce accurate and timely reports. However, a school with a basically adequate reporting system will not be held liable if inaccurate or late reports were due to computer or human error which could not have been prevented by the exercise of reasonable care.

d. *The Extent of Noncompliance With Reporting Requirements.*—Consider the nature and seriousness of the reporting errors, the consider the length of delay involved in cases of delayed reports.

4. *Rule of Reasonable Certainty.* School liability decisions will always be considered on the basis of the rule of reasonable certainty. This rule dictates that a determination of school liability is not founded merely on conjecture or likelihood or even probability, but rather on circumstances sufficiently strong to warrant a reasonable person to believe the determination is correct.

Appendix D—School Liability Procedures for the Finance Activity

1. *General.* This appendix provides specific procedures relating to school liability. Collection actions against veterans or other eligible persons are separate from actions against an educational institution and are not affected by provisions of this appendix.

2. *Adjudication Referrals To Finance Activity.* In cases not involving potential fraud the Chief, Finance activity, will receive from the Adjudication Officer, grouped referrals of VA Forms 22–8804, Report of Potential School Liability, along with each applicable claims folder and a covering memo affirming the finding of potential school liability. The referrals should remain packaged by school. The Finance activity will compute the amounts of school liability (paragraphs 4 and 9) and the Finance activity will notify school of its potential liability (par. 7).

3. *Computation of Amounts of Liability.* a. After carefully reviewing payment records, Finance personnel will prepare the VA Form 4–5295, Institutional Liability Computation Sheet, which will be completed to show the amount for which the school may be liable for the periods indicated on the VA Form 22–8804 in each case. In order to complete the computation sheet, it will be necessary to use information appearing on the VA Form 22–8804, the guidance instructions on the VA Form 4–5295 itself and information from the claims folder. Detailed instructions for completing the VA Form 4–5295 are contained in paragraph 4.

b. After the VA Form 4–5295 is prepared, it will be attached to the VA Form 22–8804, and three photocopies of both forms will be made. The original forms will be outfiled on the left side of the claims folder.

c. The photocopies of the VA Forms 22–8804 and 4–5295 will be batched by school, and held until such time as the Chief, Finance activity, prepares the FL 4–334, Notice of Intent To Hold Institution Liable. One set of VA Forms 22–8804 and 4–5295 and the VA Form 4–5237, Listing of Students Overpaid as Result of Institution's Apparent Noncompliance, will accompany the FL 4–334 sent to the school. One set of copies will go to the District Counsel, and one will be kept in Finance activity files.

4. *VA Form 4–5295, Institutional Liability Computation Sheet.* a. VA Form 4–5295 is to be used in conjunction with VA Form 22–8804. The VA Form 22–8804 will be used by the Adjudication Officer to inform the Chief, Finance activity, that a case of potential

school liability exists. Information from the VA Form 22–8804 will be transferred to the VA Form 4–5295 in accordance with the instructions below, and computations will be made to determine school liability amounts. The VA Form 4–5295 will be prepared in all cases when a VA Form 22–8804 is received in the Finance activity.

b. Columnar Instructions:

Column 1.—Transfer the dates shown in Column 5F on VA Form 22–8804 to column 1 on VA Form 4–5295. These dates will generally not be the same as the dates of the total overpayment period. The periods shown in column 5F of the VA Form 22–8804 are broken down by rate period. This means that every time a rate change occurs (change of training time, dependency status, change in legislated rates, etc.), a new period (line item) will be established.

Column 2.—Transfer the monthly benefit rate shown in column 5G on the VA Form 22–8804 to column 2 of the VA Form 4–5295. This will be the original rate awarded for the period in column 1.

Column 3.—Compute the amount of benefits that was originally authorized for this period by multiplying the monthly rate in column 2 by the number of full months in column 1, plus the prorated amounts due for any partial months; enter this amount in column 3. This amount corresponds with the "Paid" portion of a "Paid and Due" statement, and as such is the amount that should have been paid for the period in column 1 based upon award information of record.

Column 4.—Transfer the monthly benefit rate shown in column 5H on VA Form 22–8804 to column 4 of the VA Form 4–5295. This will be the new rate awarded for the period in column 1.

Column 5.—Compute the amount of benefits now authorized for this period by multiplying the monthly rate in column 4 by the number of full months in column 1, plus the prorated amounts due for any partial months. Enter this number in column 5. This figure will correspond with the "Due" portion of a "Paid and Due" statement.

Column 6.—By examining the claims folder, determine if any disbursements were made for the liability period, after notification of change of status was received from the school, or after it was learned by compliance survey (see column 5E on VA Form 22–8804). In the case of false certification, determine from column 5E of VA Form 22–8804 the date that the VA learned that the certification was false. Since there will be no liability to a school for any payments made after such date, it will be important to examine the claims folder for special payments, awards dated subsequent to award periods, award rejects, or any other actions which may have resulted in payments made after notification and for the liability period. All such disbursements may be shown as one total.

Column 7.—Determine from the Hines master record and/or claims folder if any collections or offsets have been made. Any such collections made may be shown as one total.

Column 8.—Column 3 less columns 5, 6 and 7.

c. When completing a VA Form 4–5295 for a veteran with a prior overpayment, it is important to note the following: The monthly benefits which are being offset rather than paid out to the veteran are still to be treated as payments for the purpose of establishing liability. (Example: A veteran at school "A" is awarded benefits as follows: January 1, 1977 to March 31, 1977 at $292. It is subsequently determined that the veteran never attended and an overpayment in the amount of $876 is established. The veteran now enrolls at school "B," and is awarded benefits as follows: January 1, 1978 to March 24, 1978 at $311. Benefits for this period are not paid to the veteran, but are used to offset the overpayment created by the first award period. A compliance survey determines that the veteran, in fact, never attended school "B" either, and it also places school "B" in a liability status. In calculating the amount of liability to school "B," the amounts of benefits offset will be considered as payments.)

5. *Accounts Receivable Record.* Using the total amounts of liability shown on all VA Forms 4–5295, a VA Form 4–1103, Accounts Receivable Record, will be established for each school (see Appendix E). This record will include the name, facility code and address of the school, and will reflect all actions which affect collection. Attached to the VA Form 4–1103 will be the original VA Form 4–5237, completed as described in paragraph 7 below so as to support the balance shown on the VA Form 4–1103.

6. *Administrative Expense Consideration.* After computing amounts of potential liability on VA Forms 4–5295, the Chief, Finance activity, may consider and confer with the Adjudication Officer on whether to forego all future precollection and collection activity. The Chief, Finance activity has termination authority on debts under $20,000, as per the Federal Claims Collection Act of 1966 (4 CFR 104.3(c)), when costs exceed recovery. Although this termination authority exists at any time during the collection procedure, it is during the early precollection stage when VA Forms 4–5295 are completed that the Chief, Finance activity, should, if ever, seriously consider any possible termination of overall school liability procedure. The intent here is for the Chief, Finance activity, to consider termination as early as practicable so as to avoid excessive and unnecessary further costs should termination be effected at a later date.

7. *Notice To School Of Potential Liability.* a. The Chief, Finance activity, by certified mail, return receipt requested, will send to the school FL 4–334, with attached VA Forms 4–5237, 4–5295 and 22–8804. The District Counsel will also be provided with copies of this material as set forth in paragraph 3c. The Form Letter 4–334 primarily notifies the school that the VA has determined that there is evidence to potentially establish liability. The attachments provide the evidence.

b. It will be noted that slight modifications have been made to the VA Form 4–5237. The word "liability" has been substituted for the word "overpayment" where appropriate. Changes have also been made to the first and last columns. The first column market "No." may be used to sequentially identify individual cases. Copies of VA Forms 4–5295 may be marked correspondingly. The final column of the form headed "For VA Use Only" will be used to show the veteran's actual overpayment. *Extreme care should be taken to insure that when the school's copy of the VA Form 4–5237 is prepared, this column is covered over! The information in question is subject to the Privacy Act.* Finance activities should develop an informal method of transmitting information concerning the veteran's actual overpayment from the Operations section to the office of the Chief, Finance activity when the VA Form 4–5237 is prepared. No space for this information is available on the VA Form 4–5295, and no permanent entries showing the veteran's overpayment will be made on this form.

8. *Actions by Chief, Finance Activity, Upon School Response to FL 4–334.* In accordance with paragraph 6c of the circular, the Chief, Finance activity, will take the following actions in the situations below:

a. *School desires hearing and prehearing conference or hearing only.*—Provide a copy of school's response to the Chairperson of the Committee on School Liability, the Adjudication Officer, and the District Counsel.

b. *School submits evidence but waives both hearing and prehearing conference.*—Provide a copy of school's

response to the Chairperson and the District Counsel.

c. *School does not reply to the FL 4–334.*—After expiration of 30 days from date of school's receipt of FL 4–334, immediately notify the Chairperson and District Counsel that the school has not responded.

9. *Miscellaneous.* a. *Waivers.*—A waiver of a veteran's overpayment (VA waives its right to collect), does not constitute a reduction of liability to the school.

b. *Recalculations.*—A recalculation of the amount of liability of a school may be performed annually upon school request, or if the Chief, Finance activity, wishes to bring the account into current status. In addition, a recalculation will be performed when a school indicates a willingness to make payment.

c. *Collections and Offsets.*—Any reduction of a beneficiary's receivable, by collection or offset, will be used to reduce the liability of the school whenever a recalculation is made.

d. *Transferred Claims Folders.*—When the claims folder of an overpaid veteran has been transferred to another regional office, and a recalculation (annual or potential school payment) is required, the Finance activity at the original regional office will request the Finance activity at the new regional office to complete a VA Form 4–5295 and to send this form to the original station.

e. *School Reporting Fees.*—(1) School Reporting Fees may be withheld under the following conditions:

(a) An uncontested school liability determination by the station committee. If the school fails to appeal the decision within the 60-day appeal period, it can be assumed that the school accepts the decision of the station committee. This assumption is based upon the school's failure to take advantage of its administrative remedy.

(b) Subsequent to a final decree by a court of appropriate jurisdiction.

(2) School Reporting Fees *may not be* withheld subsequent to the upholding of a liability decision by the Appeals Board. The only exception to this rule occurs when the school makes a positive gesture of acceptance of the Appeals Board's Decision.

f. *Multiple Liability Situations.*—In the event of a multiple liability situation—a school is found liable for one group of errors, when liability has already been determined for another group of errors—liability amounts will not be lumped together. Collection from the school for each group of errors will be pursued independently. Only when the entire collection procedure for both groups has run its course will the liability amount be consolidated.

10. *Notice of Decision.* The Committee on School Liability will render its decision and forward same to the Chief, Finance activity. If liability is not found, the Chief, Finance activity, will notify the school by letter with a copy of the decision attached. If liability is found, the Chief, Finance activity, will notify the school by standard collection letter with a copy of the decision attached. Both notice letters will be signed by the Chief, Finance activity. In the letter notifying the school of its liability, the Chief, Finance activity, will demand payment and will include notice of appellate rights and procedures, stating the allowable 60-day period for filing such appeal. This letter will also state that if the school does not exercise its right of appeal within the appeal period, the Committee decision will become the final Agency decision. If no appeal is made, the Chief, Finance activity, will proceed with standard collection procedures.

11. *Appeal by School.* a. *Certification to the Central Office School Liability Appeals Board.*—When the school files its appeal, the Chief, Finance activity, will check to insure that the appeal letter does in fact indicate disagreement with the decision and, too, sets forth the alleged errors of fact and law relied upon as the basis for the appeal. An appeal will be considered timely filed if received within 60 days, or 90 days if the school requests extra time in order to perfect appeal, from the date of the decision notice letter to the school. When the Chief, Finance activity, finds that the school's appeal letter is timely received and adequate in content as described above, the Committee Chairperson will be requested to furnish the entire Committee decision package (certified as such by the Chairperson) for forwarding to the School Liability Appeals Board in Central Office. The decision package will include the Committee decision, and decision notice letter, the school's letter of appeal, all other correspondence from the school and its representative, if any, and all other needed collateral material which was a part of the record for the Committee decision—such as the VA Forms 22–8804, 4–5295 and 4–5237, transcripts or memorandums from the hearing, prehearing conference, etc. Claims folders will not be included in package. The Chief, Finance activity, will forward the entire appeals package to the School Liability Appeals Board after assuring its adequacy, as discussed above (certification by Committee Chairperson is assurance of adequacy of decision package). The transmittal of the entire appeals package will constitute "certification" to Appeals Board. If the Chief, Finance activity, receives an appeal from a school which does not specifically state allegations of errors of fact and/or law, the school will be notified that it must do so in order that its appeal may be processed.

b. *Interim Notice to School.*—When the appeals package has been certified to the Appeals Board, the Chief, Finance activity, will advise the school in writing that such has been done. This letter (see appendix E) will also state that witnesses are not allowed to testify on appeal before the Appeals Board, but that both the school and the VA have the right to have a representative appear before the Appeals Board and present oral arguments respecting their positions. This letter will also provide the Appeals Board's address at Central Office (symbol 20E) should the school desire to correspond with the Appeals Board concerning the appeal.

c. *Appeals Board Decision.*—A copy of the Appeals Board's decision, along with the appeals package, will be forwarded to the Chief, Finance activity (the District Counsel will also receive a copy of the decision) simultaneously with the Board's release of the decision to the school. Upon receipt of this decision, if liability is affirmed or modified, the Chief, Finance activity, will proceed against the school with collection action. However, collection action will be suspended if the Chief, Finance activity, is notified that suit has been filed.

d. *Appeals Board Remand.*—The Appeals Board will remand the case through Chief, Finance activity, to the Chairperson, Station Committe on School Liability, for clarification or development. These are the following possibilities:

(1) The Station Committee affirms liability and the case is to be returned to the Appeals Board. In this instance, the Committee Chairperson will forward the case to the Chief, Finance activity, who will send the case back to the Appeals Board. The Chief, Finance activity, will note on VA Form 4–1103 the Reason for the expected additional delay. The Chief, Finance activity, will inform the school that the case has been returned to the Appeals Board without changes in the original Committee decision.

(2) The Station Committee reverses the original decision in total. In this instance, the Committee Chairperson will notify the Chief, Finance activity, who, in turn, will notify the Appeals Board. The Chief, Finance activity, will advise the school by letter that collection action is being terminated.

(3) The Station Committee partially modifies the liability in the school's favor. In this instance, the Committee Chairperson notifies the Chief, Finance activity, who will notify the school of this modification and simultaneously ask whether the school wishes to stop all further appellate action. This notice letter will also indicate VA's resumption of collection action should the school desire to stop its appeal. If the school requests that appellate action be continued, the Committee Chairperson and the Chief, Finance activity, will then recertify the case as amended to the Appeals Board for final decision as to the debt remaining.

(4) The Station Committee increases the school's liability. In this instance, the Committee Chairperson will forward to the Chief, Finance activity, a copy of the Committee decision increasing liability, and the Chief, Finance activity, will provide the Chairperson with the new amount of liability. The Chairperson will then provide the school with this new decision and liability, as well as opportunity for new hearing procedures. The Chief, Finance activity, will then need only to adjust the records to reflect the new amount of the debt. After new hearings, etc., the Chief, Finance activity, will receive the final Committee decision and package—certified by the Committee Chairperson—at which time he/she will recertify the entire package to the Appeals Board.

12. *Recovery Actions.* a. If a recovery is made from a school at any time, the amount recovered will not be used to reduce the indebtedness of any overpaid trainee. If a recovery has been made from a student, no refunds will be made to a school until the full amount of school liability has been recovered from the school. Refund may be made when an annual recalculation reveals that a total in excess of the school's liability amount has been collected from veterans and the school combined.

b. Any monies recovered from a school will be deposited to station funds (36X0137 Readjustment Benefits, VA). Debit 1012, Credit 4043 (3579). Refunds to a school will be made from appropriation 36X0137 station funds. Debit 4043 (3579), Credit 1012. Do not post school liability assessment to the general ledger account 1217. Consider only as a memorandum receivable and as contingent liability to basic indebtedness of the student.

c. Centralized Accounts Receivable System (CARS) has jurisdiction for debts of veterans and other eligible persons but not for collection from schools. Therefore, school liability cases are not to be referred to CARS.

d. When collection information is required in order to make a recalculation of school liability balances, stations without Pilot/Target capability may make master record writeout requests (TT 39) to the Hines DPC. Pilot/Target stations may make direct inquiries to the sytem at any time.

e. Collection action on school liability should be pursued in the same manner as any other administrative debts, except that no referrals for enforced collection to the General Accounting Office will be made at this time. Instructions for debt referrals will be forthcoming from Central Office.

13. *Reporting Requirements.* The Finance activity will prepare and submit a quarterly report of school liability cases under RCS 047–18. The report will be submitted to arrive in Central Office (042B21) by the 10th workday of April, July, October and January in the format shown below:

1. Cases with final decisions (premoratorium):

a. Names of schools and dollar amount per school on hand on which liability was previously affirmed (premoratorium), and which were not contested by the schools involved, or which were upheld by Central Office.

b. Names of schools which have requested reconsideration under paragraph 13(b)(2) of the basic circular.

2. Unworked cases in Finance:

a. Number of VA Forms 22–8804 on hand in the Finance activity which have not yet been processed (no VA Form 4–5295 prepared).

b. Number of schools represented by VA Forms 22–8804 on hand (count the number of Adjudication Officer's covering memos).

3. Name, dollar liability amount, and number of payees, of each school to which Form letter 4–334 has been sent (post-moratorium). This is a cumulative category. Remove from this category all schools which receive a station School Liability Committee decision.

4. Dispositions:

a. Name, dollar liability amount, and number of payees of each school for which liability *was not upheld*, during the reporting period.

b. Name, dollar liability amount, and number of payees of each school for which school liability *was affirmed* (post-moratorium). This category is cumulative. Remove from this category all schools which are subsequently removed from liability status.

c. Names of schools in category b, which have appealed the finding of liability to the School Liability Appeals Board.

5. Appeals Board Decisions:

a. Names of schools for which liability was upheld by the School Liability Appeals Board.

b. Names of schools absolved of liability by the School Liability Appeals Board.

6. Names of schools which have paid and dollar amounts recovered from these schools.

Note.—No local form or form letter will be developed for this report.

14. Disposition of Pending Cases. a. *Updating Amounts of Liability.*—(1) In those past school liability cases when there has been either a Central Office Final Decision, or a final Regional Office Decision when the 60-day period for requesting Central Office review expired before the beginning of the April 14, 1977 moratorium, and request for review was not received within the 60-day period, it will be necessary to recompute the current dollar amount of liability of the institution.

(2) In order to accomplish this, regional offices will request master record writeouts from the Hines DPC on all affected overpaid trainees. Pilot/Target stations may use VDT terminals to obtain master record information.

(3) If the accounts receivable balance in the master record differs from the amount shown in the claims folder or other memorandum receivable record, it will be necessary to determine if the A/R in the master record is a part of the same A/R as the one reflected by the FL 22–123. If it is, a reduction to liability will be made.

(4) Once the new liability balance has been computed, the Chief, Finance activity, will notify the educational institution of the new amount, together with other appropriate school liability and collection information, as outlined in subparagraph (5) below.

(5) The Chief, Finance activity, will attach a listing to the correspondence mentioned in subparagraph (4) above and b(1) below showing name, file number, and outstanding amount of liability for each overpaid trainee. It will normally not be necessary to provide any additional information on this listing, as the schools were previously furnished detailed information on the original notification of liability or accompanying VA Form 4–5237.

b. *Contacting the Schools.* The moratorium being over, the Chief, Finance activity, will take the following actions in accordance with the categories shown below:

(1) *Past school liability cases when there has been either a Central Office Final Decision, or a final Regional Office Decision when the 60-day period for requesting Central Office review*

expired before the beginning of the moratorium, and request for review was not received within this 60-day period. In these cases the Chief, Finance activity, will, effective immediately, make demand upon the school for payment. In this letter (see app. E, suggested format) the Chief, Finance activity, will briefly explain the lifting of the moratorium. This letter will not go into detail on VA's revised school liability procedures. However, it will tell the school of its right to, within 30 days of the date of this letter, allege substantive error and request a hearing/prehearing conference. This letter will not be sent if the school has previously paid the debt.

If the school (within 30 days from the date of this demand letter) singularly alleges the decision(s) to be substantively erroneous, such allegations of error will be forwarded to the Station Committee for reconsideration. However, if a hearing is also requested, the case will instead be forwarded to the Adjudication Officer. The Chief, Finance activity, will then suspend collection action until notice is received from the Committee Chairperson as to the final Committee decision following reconsideration. Upon receipt of the new Committee decision on reconsideration, the Chief, Finance activity, will notify the school as previously discussed in paragraph 10 of this appendix. In decisions affirming liability, the school will be advised of its right to appeal to Central Office.

(2) *All Other Cases.* All school liability cases not covered by subparagraph (1) above will be handled anew in accordance with the procedures of this circular. This category will include *all pending cases,* including those appealed cases previously returned to certain regional offices by Central Office (without final Central Office decision) because of the moratorium; those cases with regional office decisions made within 60 days of April 14, 1977, but without a request for Central Office review received; those cases with regional office decisions which, because of the moratorium, were not revealed to the school; and those cases held in abeyance, because of the moratorium, by the Committee on Waivers & Compromises. The Adjudication Officer will, if liability still exists, complete a new VA Form 22–8804, for each existing FL 22–123 involved in the above-mentioned cases, and each such VA Form 22–8804 will be processed fully in accordance with the procedures of this circular.

(a) The Chief, Finance activity, will briefly inform the applicable schools mentioned above that the moratorium is ended and that their cases are being reconsidered under the revised procedures. The Adjudication Officer will return these cases (or notice thereof) to the Chief, Finance activity, after all necessary processing under these revised procedures has been accomplished. If potential liability is not found, the Chief, Finance activity, will appropriately notify the school. If, however, potential liability is again found, the Chief, Finance activity, will notify the school by means of a letter patterned after FL 4–334, so as to clarify to the school this second finding of liability. (No form or form letter will be developed for this purpose.)

(b) The Chief, Finance activity, will return to the Adjudication Officer all FL's 22–123 currently held in abeyance in the Finance activity because of the moratorium, for consideration as to beginning again on new VA Forms 22–8804 in accordance with revised procedures. The Chief, Finance activity, will not yet need to correspond with the school on these cases since an applicable FL 4–334 was not previously sent.

15. *Work Measurement.* a. Report all time expended in direct labor on the School Liability program under End Product 431—Other Measured Work (Operations). Do not report any counts for school liability under EP 403 or 405.

b. Preparation of RCS 047–18 should be reported under End Product 424.

BILLING CODE 8320-01-M

Appendix E

NOTICE OF SCHOOL REPORTING ERROR

TO: Adjudication Officer 21 *(Symbol)*

NAME OF VETERAN OR ELIGIBLE PERSON
JOHN JONES

VA FILE NO.	NAME OF SCHOOL
123-45-6789	Smith University

School certification dated 1/5/79

on VA Form 22-1999b is:

☒ A. LATE *(Enter dates indicated below)*
END OF 30-DAY REPORTING PERIOD: 11/20/78
DATE REPORT RECEIVED: 1/8/79

☐ B. FALSE *(Explain fully in "Remarks")*

REMARKS

SIGNATURE AND TITLE	DATE
J. ADJUDICATOR	1/20/79

VA FORM 22-8804a
JUN 1978

REPORT OF POTENTIAL SCHOOL LIABILITY

1. NAME OF VETERAN OR ELIGIBLE PERSON (First - middle - last name): John Doe

2. VA FILE NO: C- 28236226

3. OVERPAYMENT OF BENEFITS UNDER
- [x] CHAPTER 34, TITLE 38, U.S.C.
- [ ] CHAPTER 35, TITLE 38, U.S.C.
- [ ] CHAPTER 32, TITLE 38, U.S.C.

4. NAME AND ADDRESS OF SCHOOL: Smith University, City, State

NOTE: The school may be potentially liable for all or some part of the overpayment in this student's case as shown below. Complete Items 5A through 5H for each incident of late reporting or false certification. See Reverse for codes to be entered in Item 5A and for additional instructions.

5A. REASON FOR POTENTIAL LIABILITY (Use codes on Reverse)	5B. DATE SCHOOL SIGNED LATE REPORT OR FALSE CERTIFICATION	5C. DATE OF CHANGE OF ENROLLMENT STATUS (Late reports only)	5D. ENDING DATE OF 30-DAY REPORTING PERIOD (Late reports only)	5E. DATE LATE REPORT RECEIVED IN VA OR DATE VA LEARNED OF FALSE CERTIFICATION	5F. PERIOD OF POTENTIAL LIABILITY		5G. ORIGINAL TRAINING TIME AND RATE		5H. ADJUSTED TRAINING TIME AND RATE	
					FROM (Month, day, year)	THROUGH (Month, day, year)	TRAINING TIME	MONTHLY RATE	TRAINING TIME	MONTHLY RATE
A1	N/A*	3/15/77	4/14/77	5/25/78	5/1/77	5/14/77	FT	$292	3/4 T	$219
					5/15/77	5/31/77	FT	347	3/4 T	260
A1	N/A*	4/5/77	5/5/77	5/25/78	6/1/77	6/8/77	FT	347	1/2 T	174
A4	N/A*	3/2/78	4/1/78	5/25/78	4/1/78	4/30/78	FT	370	None	None

6. REMARKS

Facts for above example: Benefits were based on enrollment certifications showing full time from 2/6/77 to 6/8/77, and from 9/11/77 to 6/1/78. Benefits were increased on 5/15/77 to reflect one dependent. Compliance survey on 5/25/78 showed the following changes that were not reported:

- reductions to 3/4 time on 3/15/77 and to 1/2 time on 4/5/77
- withdrawal on 3/2/78.

Note 1 - The prepayment method of payment was changed to postpayment on 6/1/77.

Note 2 - The adjusted training time and rate (item 5H) for the period 5/1/77 to 5/31/77 is not the same as the actual training time and rate due for that period. This is because the school may only be liable for the difference between the full-time rate and the 3/4-time rate for May 1977.

*Overpayment resulted from compliance survey.

VA FORM JUN 1978 **22-8804**

INSTITUTIONAL LIABILITY COMPUTATION SHEET

NAME OF VETERAN: JOHN DOE

NAME OF INSTITUTION: SMITH UNIV.

VA FILE NO. (Include prefix): C 28 236 226

COLUMNAR INSTRUCTIONS

1. Transfer from column F on VA Form 22-8804.
2. Transfer from column G on VA Form 22-8804.
3. Compute as shown. Multiply the rate in column 2 by the period in column 1.
4. Transfer from column H on VA Form 22-8804.
5. Compute as shown. Multiply the rate in column 4 by the period in column 1.
6. Determine by comparing payment records to column E on VA Form 22-8804.
7. Examine collection history.
8. Column 3 less columns 5, 6 and 7.

1. PERIOD OF POTENTIAL LIABILITY (Periods are broken down by rate changes) FROM – THROUGH	2. ORIGINAL MONTHLY RATE	3. ORIGINAL AMOUNT AUTHORIZED FOR PERIOD (Rate X period) PAID	4. ADJUSTED MONTHLY RATE DUE	5. ADJUSTED AMOUNT AUTHORIZED FOR PERIOD (Rate X period) DUE	6. DISBURSEMENTS MADE FOR PERIOD, SUBSEQUENT TO NOTIFICATION, OR DATE VA LEARNED OF CHANGE	7. AMOUNTS COLLECTED OR OFFSET, APPLICABLE TO THE LIABILITY	8. NET POTENTIAL LIABILITY
5/1/77 - 5/14/77	292	136.27	219	102.20			34.07
5/15/77 - 5/31/77	347	185.06	260	138.67			46.39
6/1/77 - 6/8/77	347	92.53	174	46.40			46.13
4/1/78 - 4/30/78	370	370.00	NONE	ϕ			370.00
		783.86		287.27		TOTAL ▶	$496.59

VA FORM JUN 1978 4-5295

LISTING OF STUDENTS OVERPAID AS RESULT OF INSTITUTION'S APPARENT NONCOMPLIANCE

PAGE NO. 1 OF 1

NO	STUDENT'S NAME	VA FILE NO	AMOUNT OF LIABILITY	PERIOD OF LIABILITY	CAUSE OF OVERPAYMENT	FOR VA USE ONLY
1	JOHN DOE	C 28 236 226	496.59	(5-1-77 TO 6-8-77 4-1-78 TO 4-30-78)	(A1 A4)	ENTRY (FROM M/R)
2	JANE SMITH	C 11222 333	ENTRY	ENTRY	ENTRY	ENTRY
3	JACK JONES	CSS 098365509	ENTRY	ENTRY	ENTRY	ENTRY

SCHOOL LIABILITY REASON CODES

A. Negligent failure of the educational institution to timely report the following:
1. Reduction in training time (VAR 14135, VAR 14203)
2. Excessive absences (VAR 14205)
3. Unsatisfactory Progress (VAR 14135, VAR 14203)
4. Termination (VAR 14135, VAR 14203)
5. Other (See VA Form 22-8804)

B. False certification (unintentional) by the educational institution as follows:
1. Incorrect dates of enrollment (VAR 14131, VAR 14135, VAR 14203)
2. Course(s) certified not approved for VA benefits (See VA Form 22-8804) (VAR 14205)
3. Courses certified are not part of program (VAR 14203, VAR 14230)
4. Incorrect number of hours certified (VAR 14203)
5. Other (See VA Form 22-8804)

C. Willful failure to report or intentionally false certification (See VA Form 22-8804)

VA FORM JUN 1978 4-5237

SUPERSEDES VA FORM 4-5237, NOV 1976, WHICH WILL NOT BE USED.

BILLING CODE 8320-01-C

Veterans Administration

This is a NOTICE OF INTENT to hold your institution liable for certain overpayments of educational assistance benefits. A determination has been made that overpayments to the veteran(s) and/or eligible person(s), as shown by the attachments to this letter, may have been created as the result of your institution's apparent noncompliance with proper and timely reporting requirements. The individuals involved are being notified of their indebtedness.

Section 1785, Title 38, United States Code, provides that if an overpayment is created as the result of (1) willful or negligent failure of an educational institution to report to the Veterans Administration excessive absences from a course, or discontinuance or interruption of a course, or (2) false (erroneous) certification by an educational institution, the amount of such overpayment shall constitute a liability of such institution, and may be recovered in the same manner as any other debt due the United States.

Your institution may therefore be liable for the overpayment(s) to subject veteran(s) and/or eligible person(s) which now totals $————. This amount, however, is subject to reduction in accordance with the amount(s) recovered from the veteran(s) and/or eligible person(s).

You are invited to submit, by certified mail, any facts or information in rebuttal to the attached evidence of your possible liability. Alternatively you may, by certified mail, request a hearing to present your case, in which event we will first schedule a pre-hearing conference unless you express your desire to waive this conference.

The purpose of a pre-hearing conference is to give you and your legal representative(s), if any, an opportunity to review and discuss the record, upon which our assessment of your liability is based, so that issues may be properly framed. This conference would also provide an opportunity to determine persons who will be called as witnesses at the hearing, and to set a mutually convenient date for the hearing. If you waive the pre-hearing conference, you are requested to submit your documentary evidence and list of proposed hearing witnesses by mail. Upon receipt of this submission, we will forward to you this agency's witness list as well as information about the panel members who will make the final decision in your case.

If your rebuttal evidence or hearing request is not received by the VA within 30 days of the date of your receipt of this letter, our final decision as to your liability under 38 U.S.C. 1785 will be made on the evidence of record.

Sincerely yours,

————,

Chief, Finance Activity.

Enclosure.

Letter to School Telling About End of Moratorium and Renewed Demand for Payment

Dear————: Since April 14, 1977, we have refrained from requesting payment of the debt previously charged you as a result of educational benefits overpayments made to veterans enrolled in your institution. We regret this delay, but considered it necessary so that we could make procedural changes respecting our implementation of Title 38, United States Code, Section 1785. These procedural changes, however, do not alter our previous determination that your institution is liable. Accordingly, collection action has now been resumed and we are again requesting payment.

If you feel substantive error has been made in your case, please specifically identify this error(s) within 30 days from the date of this letter. Allegations of substantive error will be reconsidered by our station Committee on School Liability. Also, you may within 30 days of this letter request a hearing to orally present your case to the Committee, in which event we will first schedule a prehearing conference unless you express your desire to waive this conference.

The current amount of your liability is ————. If this amount differs from that previously stated to you, it is because we have since recovered some of the debt from the veterans and/or eligible persons who were also liable. If such is the case, you will find attached a revised listing of debtor overpayments for which you are currently held liable.

(Continue with standard collection paragraphs, but without reference to right to request waiver of collection.)

Sincerely,

————,

Chief, Finance Activity.

Letter—Interim Notice to School That Case on Appeal Has Been Forwarded to the School Liability Appeals Board.

Dear————: We have received your letter appealing our decision holding your institution liable for certain overpayments of educational benefits. We are forwarding your case to our Central Office School Liability Appeals Board in Washington, D.C. This Board will make a final decision as to your liability based on careful review of the entire record, including your letter of appeal.

It is not necessary that your school be personally represented at the Board's review; however, both your school and the Government have the right to have a representative appear before the Board and present oral argument regarding respective positions. However, your letter of appeal may constitute appearance before the Board. Testimony by witnesses is not allowed on appeal. If you intend representation before the Board, please write, within 10 days of the date of this letter, to the Chairperson of the School Liability Appeals Board at the Veterans Administration Central Office (20E), 810 Vermont Avenue, NW, Washington, D.C. 20420. Appropriate arrangements for your representation will then be made by the Board.

The Board will promptly notify you of its decision, and also provide a copy of this decision.

Sincerely,

————,

Chief, Finance Activity.

BILLING CODE 8320-01-M

NAME AND ADDRESS OF DEBTOR
THE ACME COLLEGE
123 MAIN STREET
ANYTOWN, USA

SCHOOL LIABILITY

NAME OF VETERAN

FACILITY CODE 1 2 3 4 5 6 7 8

SERVICE SERIAL NO.

VETERAN'S SOCIAL SECURITY NO.

NAME OF DEBTOR

PAYEE NO. | ENT. CODE | REC CODE | CLASS

REMARKS
JOHN JONES - PRES.
JANE SMITH - ATTORNEY

	FROM	TO	RATE	AMOUNT
PAID				$
DUE				
DELINQUENT CODE		OVERPAYMENT		$

COLLECTION ACT ON | 1ST LTR | CR REP REQ | 2ND LTR | CR REP RECD | 3RD LTR | VA FORM 1810 | ADD'L | OTHER

DATE	DESCRIPTION	DEBIT	CREDIT	BALANCE
9/1/78	POTENTIAL LIAB. EST. (SEE VAF 4-5237)	1 000 000 00		1 000 000 00
9/15/78	FL 4-339 + ATTACHMENTS SENT			
10/15/78	SCHOOL REQUESTS HEARING			
11/15/78	LIAB. AFFIRMED BY COM'TEE.			
11/16/78	1ST COLLECTION LETTER			
12/16/78	SCHOOL REQ 30-DAY EXTENSION OF 60-DAY APPEAL PERIOD.			
2/16/79	SCHOOL APPEALS DECISION.			

VA FORM 4-1103 MAY 1968 — EXISTING STOCKS OF VA FORM 1103, DEC 1963, WILL BE USED

ACCOUNTS RECEIVABLE RECORD

PAGE 2

DATE	DESCRIPTION	DEBIT	CREDIT	BALANCE
3/1/79	APPEAL PACKAGE TO CO BOARD (20E)			
3/2/79	INTERIM NOTICE TO SCHOOL			
5/1/79	BOARD REMAND TO COM'TEE			
5/15/79	COM'TEE REDUCES LIABILITY		400 000 00	600 000 00
6/1/79	PACKAGE BACK TO CO BOARD			
6/2/79	NOTIFICATION TO SCHOOL			
9/5/79	BOARD UPHOLDS LIABILITY IN PART - REDUCES $100,000		100 000 00	500 000 00
9/6/79	ANNUAL RECALCULATION - OFFSETS AND COLLECTIONS FROM VETS -		100 000 00	400 000 00
9/15/79	2ND COLLECTION LETTER			
10/15/79	3RD COLLECTION LETTER			
11/16/79	NOTIFY CO (047C2)			
11/20/79	SCHOOL WISHES TO PAY - RECALCULATION		50 000 00	350 000 00

PAGE 3

DATE	DESCRIPTION	DEBIT	CREDIT	BALANCE
11/21/79	NOTIFY CO (047C2)			
12/1/79	SCHOOL REVERSES ITSELF, WILL FILE SUIT AGAINST VA NOTIFY CO (047C2)			

[FR Doc. 79-35704 Filed 11-19-79; 8:45 am]

BILLING CODE 8320-01-C

INTERSTATE COMMERCE COMMISSION

Permanent Authority Decisions

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR 1100.247). These rules provide, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register**. Protests (such as were allowed to filings prior to March 1, 1979) *will be rejected.* A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. The Commission will also consider (a) the nature and extent of the property, financial, or other interest of the petitioner, (b) the effect of the decision which may be rendered upon petitioner's interest, (c) the availability of other means by which the petitioner's interest might be protected, (d) the extent to which petitioner's interest will be represented by other parties, (e) the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and (f) the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rule may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission indicating the specific rule under which the petition to intervene is being filed, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides, in part, that an applicant which does not intend to timely prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administrative acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.gs., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulation. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) [formerly section 210 of the Interstate Commerce Act.]

In the absence of legally sufficient petitions for intervention, filed on or before December 20, 1979 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the following decision-notices within 30 days after publication, or the application shall stand denied.

Note.—All applications are for authority to operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, except as otherwise noted.

Volume No. 200

Decided: Oct. 17, 1979.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones, Member Jones not participating.

MC 200 (Sub-349F), filed May 7, 1979. Applicant: RISS INTERNATIONAL CORPORATION, 903 Grand Avenue, Kansas City, MO 64106. Representative: Ivan E. Moody (same address as applicant). Transporting *meats*, packinghouse products and, *commodities* used by packinghouses as described in Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides, dairy products, and commodities in bulk), between Mason City and Britt, IA, on the one hand, and, on the other, points in AR, CO, CT, DE, IL, IN, KS, KY, MD, ME, MI, MO, NE, NH, NJ, NY, OH, OK, PA, RI, TX, VT, VA, WV, and DC, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Kansas City, MO.)

MC 5470 (Sub-192F), filed May 23, 1979. Applicant: TAJON, INC., R.D. 5, Mercer, PA 16137. Representative: Brian L. Troiano, 918 16th Street NW., Washington, DC 20006. Transporting *coal*, in dump vehicles, from points in Pike County, KY, to Natrium, WV.

(Hearing site: Washington, DC, or Buffalo, NY.)

MC 6031 (Sub-51F), filed May 29, 1979. Applicant: BARRY TRANSFER & STORAGE CO., INC., 120 East National Avenue, Milwaukee, WI 53204. Representative: William C. Dineen, Suite 412, Empire Bldg., 710 North Plankinton Avenue, Milwaukee, WI 53203. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *coke*, from Milwaukee, WI, to points in IA, IL, IN, MI, and MN, under continuing contract(s) with Milwaukee Solvey Coke Company, a division of Pickands Mather & Co., of Chicago, IL. (Hearing site: Milwaukee, WI.)

Note.—Dual operations may be involved.

MC 22301 (Sub-29F), filed May 10, 1979. Applicant: SIOUX TRANSPORTATION CO., INC., P.O. Box 3088, Sioux City, IA 51102. Representative: Edward G. Bazelon, 39 South LaSalle St., Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Chicago, IL and Des Moines, IA, from Chicago over Interstate Hwy 55 to junction Interstate Hwy 80, then over Interstate Hwy 80 to Des Moines (also from junction Interstate Hwy 80 and U.S. Hwy 6 at or near Iowa City, IA, over U.S. Hwy 6 to Des Moines), and return over the same route, serving all intermediate points in Iowa between Iowa City, and Des Moines, IA, including Iowa City and Des Moines, and the off-route points of Avon, Ankeny, and Bondurant, IA, (2) between Iowa City and Cedar Rapids, IA, (a) over U.S. Hwy 218, serving all intermediate points, and (b) over Interstate Hwy 380, serving all intermediate points, (3) between Chicago, IL and Cedar Rapids, IA, from Chicago over IL Hwy 5 to junction U.S. Hwy 30 at or near Aurora, IL, then over U.S. Hwy 30 to Cedar Rapids, and return over the same route, serving no intermediate points, (4) between Des Moines, IA and Omaha, NE, over Interstate Hwy 80, serving no intermediate points, and (5) between junction Interstate Hwy 80 and Interstate Hwy 680 and junction Interstate Hwy 680 and Interstate Hwy 29 at or near Loveland, IA, over Interstate Hwy 680, serving no intermediate points and serving the junction of Interstate Hwy 80 and Interstate Hwy 680 and junction Interstate Hwy 680 and Interstate Hwy 29 for purposes of joinder only. (Hearing site: Chicago, IL.)

Note.—Applicant intends to tack the requested authority with its existing authority.

MC 41951 (Sub-44F), filed May 25, 1979. Applicant: WHEATLEY TRUCKING INC., P.O. Box 458, Cambridge, MD 21613. Representative: Gary E. Thompson, 4304 East-West Highway, Washington, DC 20014. Transporting *unfrozen foodstuffs* (except commodities in bulk), from points in IL, IN, and WI, to points in DE, MD, NJ, NY, PA, and VA. (Heaing site: Washington, DC.)

MC 43421 (Sub-61F), filed May 21, 1979. Applicant: DOHRN TRANSFER COMPANY, a corporation, 4016 9th St., P.O. Box 1237, Rock Island, IL 61201. Representative: Edward G. Bazelon, 39 South LaSalle St., Chicago, IL 60603. Transporting *general commodities* (except those of unusual value, classes A and B explosive, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), serving Fort Madison and Muscatine, IA, as off-route points in connection with the carrier's otherwise authorized regular-route operations. (Hearing site: Chicago or Rock Island, IL.)

MC 43421 (Sub-62F), filed May 21, 1979. Applicant: DOHRN TRANSFER COMPANY, a corporation, 4016 9th Street, Rock Island, IL 61201. Representative: Edward G. Bazelon, 39 South LaSalle Street, Chicago, IL 60603. Transporting *building materials*, from the facilities of Rolscreen Company, at Pella, IA, to Louisville, KY, Elk Grove Village and Rock Island, IL, Indianapolis and Fort Wayne, IN, and Cincinnati, Cleveland, Kettering, and Toledo, OH. (Hearing site: Chicago, IL.)

MC 47171 (Sub-126F), filed May 23, 1979. Applicant: COOPER MOTOR LINES, INC., P.O. Box 2820, Greenville, SC 29602. Representative: Harris G. Andrews (same address as applicant). Transporting *textiles and textile products*, from points in Spartanburg County, SC, to points in NH, NY, and those points in CT on and east of the Connecticut River, and those points in PA on and west of the Susquehanna River. (Hearing site: Washington, DC.)

MC 48441 (Sub-47F), filed May 21, 1979. Applicant: R.M.E. INC., P.O. Box 418, Streator, IL 61364. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. Transporting *such commodities* as are used, dealt in or distributed by paper and plastics manufacturers and converters of paper (except commodities in bulk), from points in MO, IL, IA, IN, and WI, to the facilities of Brown Company and Georgia-Pacific Corporation, at or near Kalamazoo, MI. (Hearing site: Chicago, IL.)

MC 56270 (Sub-29F), filed May 23, 1979. Applicant: LEICHT TRANSFER & STORAGE CO., A Corporation, 1401–55 State Street, P.O. Box 2385, Green Bay, WI 54306. Representative: Dennis L. Sedlacek (same address as applicant). Transporting *particleboard* between Marshfield, WI, on the one hand, and, on the other, points in IA, IL, IN, MI, MN, and OH. (Hearing site: Milwaukee, WI, or Chicago, IL.)

MC 67450 (Sub-91F), filed May 29, 1979. Applicant: PETERLIN CARTAGE CO., a corporation, 9651 S. Ewing Ave., Chicago, IL 60617. Representative: Joseph Winter, 29 South LaSalle St., Chicago, IL 60603. Transporting *sugar*, from points in MI, to points in IL, IN, IA, KY, OH, and WI. (Hearing site: Chicago, IL.)

MC 75320 (Sub-215F), filed May 24, 1979. Applicant: CAMPBELL SIXTY-SIX EXPRESS, INC., P.O. Box 807, Springfield, MO 65801. Representative: John A Crawford, 17th Floor, Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205. Transporting *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Wilton Corporation, at or near Pontotoc, MS, as an off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Jackson, MS, or Chicago, IL.)

MC 90870 (Sub-28F), filed May 29, 1979. Applicant: RIECHMANN ENTERPRISES, INC., Route 2, Box 137, Alhambra, IL 62001. Representative: Cecil L. Goettsch, 1100 Des Moines Bldg., Des Moines, IA 50309. Transporting *drywall products*, and *materials and supplies* used in the installation and distribution of drywall products, from Memphis, TN, to points in FL, GA, IL, IN, MI, MO, TX, and WI. (Hearing site: Memphis, TN, or Chicago, IL.)

MC 93840 (Sub-48F), filed May 29, 1979. Applicant: GLESS BROS., INC., P.O. Box 219, Blue Grass, IA 52726. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. Transporting *liquid feed*, from Olin, IA, to points in IL, MN, MO, and WI. (Hearing site: Des Moines, IA.)

MC 111860 (Sub-4F), filed May 29, 1979. Applicant: WEST YEN EXPRESS CO., a corporation, 18 Donaldson Place, Linden, NJ 07036. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products, and meat byproducts, and articles distributed by meat-packing houses* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides, skins, and commodities in bulk), from the facilities of John Morrell & Co., at or near (a) East St. Louis, IL, and Cincinnati, OH, to points in CT, MA, NJ, NY, and PA, under continuing contract(s) with John Morrell & Co., of Chicago, IL. (Hearing site: Chicago, IL, or Washington, DC.)

MC 111940 (Sub-73F), filed May 21, 1979. Applicant: SMITH'S TRUCK LINES, P.O. Box 88, Muncy, PA 17756. Representative: John M. Musselman, P.O. Box 1146, 410 North Third Street, Harrisburg, PA 17108. Transporting *flour*, between points in MD, NY, and PA. (Hearing site: Harrisburg, PA, or Washington, DC.)

MC 113651 (Sub-304F), filed May 21, 1979. Applicant: INDIANA REFRIGERATOR LINES, INC., P.O. Box 552, Riggin Road, Muncie, IN 47305. Representative: Glen L. Gissing (same address as applicant). Transporting *such commodities* as are dealt in by grocery and food business houses (except commodities in bulk), from points in NY, NJ, and CT, to points in PA, OH, IN, IL, IA, MO, KY, TN, LA, AL, FL, GA, TX, WI, MI, MN, NE, and WV. (Hearing site: New York, NY, or Washington, DC.)

MC 114211 (Sub-407F), filed May 14, 1979. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Representative: Adelor J. Warren (same address as applicant). Transporting *such commodities* as are dealt in or used by manufacturers and dealers of agricultural equipment and machinery, industrial equipment and machinery, and lawn and leisure products, (except commodities in bulk), (1) between the facilities of Deere & Company, in Black Hawk and Dubuque Counties, IA, on the one hand, and, on the other, points in the United States (except AK, FL, GA, HI, NC, and SC), (2) between the facilities of Deere & Company, in Dodge County, WI, on the one hand, and, on the other, points in the United States (except AK, FL, GA, HI, NC, and SC), (3) between the facilities of Deere & Company, in (a) Scott County, IA, and (b) Rock Island County, IL, on the one hand, and, on the other, points in the United States (except AK, DE, FL, GA, HI, KY, MD, NJ, NC, PA, SC, VA, WV, and DC), (4) between the facilities of Deere & Company, in Polk and Wapello Counties, IA, on the one hand, and, on the other, points in AL, AR, AZ, CA, CO, ID, IL, IA, KS, LA, MN, MS, MO, MT, NE, NV, NM, ND, OK, OR, SD, TN, TX, UT, WA, WI, and WY, and (5) between points in the United States (except AK and HI), restricted in (1), (2), (3) and (4) above to the transportation of traffic originating at or destined to the named facilities and restricted in (5), (a) to the transportation of traffic originating at or destined to the dealers of Deere & Company, and (b) against the transportation of traffic originating at or destined to the facilities of Deere & Company, at points in (i) Black Hawk Dubuque, Polk, Scott, and Wapello Counties, IA, (ii) Dodge County, WI, and (iii) Rock Island County, IL.

MC 114211 (Sub-410F), filed May 23, 1979. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Representative: Adelor J. Warren (same address as applicant). Transporting *such commodities* as are dealt in by wholesale and retail lumber distributors, and home improvement, home furnishing, and lumber stores (except commodities in bulk), from points in the United States (except WA, OR, ID, MT, CO, NM, AZ, CA, AK, and HI), to points in IL and MO. (Hearing site: St. Louis, MO, or East St. Louis, IL.)

MC 114211 (Sub-411F), filed May 23, 1979. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Representative: Adelor J. Warren (same address as applicant). Transporting *such commodities* as are dealt in or used by agricultural equipment dealers and manufacturers (except commodities in bulk), between points in KS, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Topeka or Wichita, KS.)

MC 114301 (Sub-107F), filed May 23, 1979. Applicant: DELAWARE EXPRESS CO., a corporation, P.O. Box 97, Elkton, MD 21921. Representative: Maxwell A. Howell, 1100 Investment Building, 1511 K Street NW., Washington, DC 20005. Transporting *feed* and *feed ingredients* (except liquid), from Baltimore, MD, to points in NC and SC. (Hearing site: Washington, DC.)

MC 115841 (Sub-716F), filed May 29, 1979. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Building 100, Knoxville, TN 37919. Representative: D. R. Beeler (same address as applicant). Transporting *such commodities* as are dealt in by chain grocery and food business houses (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, between points in AL, AR, CT, FL, GA, IA, IL, IN, KS, KY, MI, MD, MN, MO, MS, NC, NE, NY, NJ, OH, PA, SC, TN, TX, VA, WI, and WV, restricted to the transportation of traffic originating at or destined to the facilities of Kraft, Inc. (Hearing site: Washington, DC, or Chicago, IL.)

MC 117940 (Sub-338F), filed May 23, 1979. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, MN 55359. Representative: Allan L. Timmerman, 5300 Highway 12, Maple Plain, MN 55359. Transporting *foodstuffs* (except in bulk), from the facilities of the Pillsbury Company, at Minneapolis, MN, to points in AL, FL, GA, NC, SC, and TN. (Hearing site: Minneapolis or St. Paul, MN.)

MC 119741 (Sub-193F), filed May 25, 1979. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Avenue NW., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson, (same address as applicant). Transporting *canned pet food*, from the facilities of Carnation Company, at or near Fort Dodge, IA, to Mechanicsburg, PA, Elwood, KS, Fort Wayne, IN, and Rochelle, IL, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Los Angeles, CA.)

MC 121060 (Sub-103F), filed April 26, 1979. Applicant: ARROW TRUCK LINES, INC., P.O. Box 1416, Birmingham, AL 35201. Representative: William P. Jackson, Jr., 3426 North Washington Blvd., P.O. Box 1240, Arlington, VA 22210. Transporting (1) *paper and paper products*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), between those points in the United States in and east of ND, SD, NE, KS, OK, and TX, restricted to the transportation of traffic originating at or destined to the facilities of Champion International Corporation. (Hearing site: Washington, DC.)

MC 121060 (Sub-107F), filed May 23, 1979. Applicant: ARROW TRUCK LINES, INC., Post Office Box 1416, Birmingham, AL 35201. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., Post Office Box 1240, Arlington, VA 22210. Transporting *iron and steel articles*, from the facilities of Laclede Steel Company, at or near

Alton, IL, to points in AL, GA, MS, and TN. (Hearing site: St. Louis, MO.)

MC 124170 (Sub-125F), filed May 3, 1979, and previously noticed in Federal Register issue of October 4, 1979. Applicant: FROSTWAYS, INC., 3000 Chrysler Service Drive, Detroit, MI 48207. Representative: William J. Boyd, 600 Enterprise Drive, Oak Brook, IL 60521. Transporting *such commodities* as are dealt in by chain grocery and food business houses, (except commodities in bulk), in vehicles equipped with mechanical refrigeration, between points in AL, AR, AZ, CT, GA, IA, IL, IN, KS, KY, MD, MA, MI, MN, MO, MS, NC, NE, NY, NJ, OH, PA, TN, TX, UT, VA, VT, and WI, restricted to the transportation of traffic originating at or destined to the facilities of Kraft, Inc. (Hearing site: Chicago, IL, or Washington, DC.)

Note.—This republication shows GA as an origin or destination state in lieu of CA.

MC 124951 (Sub-43F), filed May 29, 1979. Applicant: WATHEN TRANSPORT, INC., P.O. BOX 237, Henderson, KY 42420. Representative: Louis J. Amato, P.O. Box E, Bowling Green, KY 42101. Transporting *iron and steel articles*, from the facilities of International Steel Company, at Evansville, IN, to points in OH, MI, KY, PA, TN, and IL. (Hearing site: Evansville, IN, or Louisville, KY.)

MC 127840 (Sub-106F), filed May 17, 1979. Applicant: MONTGOMERY TANK LINES, INC., 17550 Fritz Drive, P.O. Box 382, Lansing, IL 60438. Representative: William H. Towle, 180 North LaSalle Street, Chicago, IL 60601. Transporting *carbontetrachloride*, from New Castle, KY, to Deer Park, TX. (Hearing site: Louisville, KY.)

MC 127921 (Sub-2F), filed May 25, 1979. Applicant: COOLEY TRANSPORT, INC., P.O. Box 225, Box 8, Inman, SC 29349. Representative: Steven L. Weiman, Suite 145, 4 Professional Drive, Gaithersburg, MD 20760. Transporting *salt*, in bulk, between the facilities of Cargill, Inc., at or near Spartanburg, SC, on the one hand, and, on the other, points in VA. (Hearing site: Spartanburg, SC, or Washington, DC.)

MC 134501 (Sub-51F), filed May 22, 1979. Applicant: INCORPORATED CARRIERS, LTD., P.O. Box 3128, Irving, TX 75061. Representative: T. M. Brown, P.O. Box 1540, Edmond, OK 73034. Transporting *used and reconditioned hospital furniture*, between Tulsa and Oklahoma City, OK and Bedford, TX, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Tulsa or Oklahoma City, OK.)

MC 135070 (Sub-68F), filed May 29, 1979. Applicant: JAY LINES, INC., P.O. Box 30180, Amarillo, TX 79120. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. Transporting *meats, meat products, and meat byproducts, and articles* distributed by meat packing-houses as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Reelfoot Packing Company, at or near Union City and Humboldt, TN, to points in CA, WA, OR, AZ, NM, CO, OK, KS, NE, IA, MO, IL, WI, IN, MI, OH, PA, VA, MD, DE, ME, NH, VT, RI, CT, MA, NY, NJ, WV, and DC. (Hearing site: Memphis, TN, or Amerillo, TX.)

Note.—Dual operations may be involved.

MC 135410 (Sub-61F), filed May 25, 1979. Applicant: COURTNEY J. MUNSON, doing business as, MUSON TRUCKING, P.O. Box 266, Monmouth, IL 61462. Representative: Stephen H. Loeb, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. Transporting (1) *cranberry and prune products* (except in bulk), from the facilities of Ocean Spray Cranberries, Inc., at or near Middleboro, MA, to points in IA, IL, IN, OH, WI, MI, and KS; and (2) *canned fruit juices and sauces*, from the facilities of Keystone Foods, Inc., at or near Erie and North East, PA, to points in the United States (except AK and HI). Restricted in part (2) to the transportation of traffic origination to the name origins. (Hearing site: Washington, DC.)

MC 136511 (Sub-55F), filed May 22, 1979. Applicant: VIRGINIA APPALACHIAN LUMBER CORPORATION, 9640 Timberlake Road, Lynchburg, VA 24502. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. Transporting *canned foodstuffs*, from the facilities of B. F. Trappey's Sons, Inc., at or near New Iberia and Lafayette, LA, to points in WA, OR, CA, AZ, UT, NM, CO, TX, MS, TN, AL, GA, FL, SC, NC, WV, VA, IL, IA, WI, MO, IN, MI, OH, NY, and PA. (Hearing site: New Orleans, LA.)

MC 138151 (Sub-5F), filed May 22, 1979 Applicant: OREGON RUBBER CO., a corporation, 3595 West First Avenue, Eugene, OR 97402. Representative: J. W. McCracken, Jr., 620 Citizens Building, 175 Oak Street, Eugene, OR 97401. Transporting *lumber*, from points in Linn and Klamath Counties, OR, to points in NM (except points in Rio Arriba and San Juan Counties). (Hearing site: Eugene or Portland, OR.)

MC 141811 (Sub-6F), filed May 25, 1979. Applicant: SCHEDULED TRANSPORT, INC., 9000 Keystone Crossing, Suite 945, Indianapolis, IN 46240. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting *flour*, in bulk, in tank vehicles, from Lake City, MN, to points in MI, IL, IN, and OH. (Hearing site: Washington, DC.)

MC 142601 (Sub-2F), filed May 23, 1979. Applicant: CECO TRANSPORT, INC., 5601 West 26th Street, Chicago, IL 60650. Representative: Daniel C. Sullivan, 10 South LaSalle Street, Suite 1600, Chicago, IL 60603. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *bakery goods*, from the facilities of Merico, Inc., at Little Rock, AR, to points in AL, AZ, CA, CO, FL, GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, NM, NC, ND, OH, OK, SC, SD, TN, TX, VA, and WI, under continuing contract(s) with Merico, Inc., of Carrollton, TX. (Hearing site: Chicago, IL.)

MC 142680 (Sub-11F), filed May 29, 1979. Applicant: SUMTER TIMBER CO., INC., P.O. Box 104, Cuba, AL 36907. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Blvd., Atlanta, GA 30349.Transporting *lumber*, from Demopolis, AL, and points in Clarke County, AL, to points in FL, GA, MS, LA, and TN. (Hearing site: Birmington, AL, or Atlanta, GA.)

MC 143540 (Sub-16F), filed May 29, 1979. Applicant: MARINE TRANSPORT COMPANY, a corporation, P.O. Box 2142, Wilmington, NC 28402. Representative: Ralph McDonald, P.O. Box 2246, Raleigh, NC 27602. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paper and paper products*, from the facilities of Scott Paper Company, at points in (1) DE, NJ, NY, and PA, to points in AL, GA, IL, NC, SC, VA, and WI, (2) IL and WI, to points in AL, GA, NJ, NY, and PA, and (3) AL and GA, to points in IL, IN, NJ, NY, OH, PA, and WI, under continuing contract(s) with Scott Paper Company, of Philadelphia, PA. (Hearing site: Wilmington, NC.)

MC 144330 (Sub-61F), filed May 29, 1979. Applicant: UTAH CARRIERS, INCORPORATED, P.O. Box 1218, Freeport Center, Clearfield, UT 84016. Representative: Charles D. Midkiff (same address as applicant). Transporting *lumber*, from Chickasaw, AL, to Denver, CO, restricted to the transportation of traffic originating at the named origin and destined to the indicated destination. (Hearing site: Denver, CO.)

MC 145441 (Sub-40F), filed May 22, 1979. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: E. Lewis Coffey (same address as applicant). Transporting *shampoo,* in containers, from the facilities of Evron Industries, at Chicago, IL, to points in AL and FL. (Hearing site: Chicago, IL, or Little Rock, AR.)

Note.—Dual operations may be involved.

MC 145870 (Sub-13F), filed May 25, 1979. Applicant: L-J-R HAULING, INCORPORATED, P.O. Box 699, Dublin, VA 24084. Representative: Wilmer B. Hill, 805 McLachlen Bank Building, 666 Eleventh St., NW., Washington, DC 20001. Transporting *iron and steel articles,* from points in AL, IL, IN, KY, MD, OH, PA, TN, and WV, to the facilities of Enterprise Fabricators, Inc., at Bristol, VA. (Hearing site: Bristol, VA, or Washington, DC.)

MC 145950 (Sub-23F), filed May 23, 1979. Applicant: BAYWOOD TRANSPORT, INC., P.O. Box 2611, Waco, TX 76706. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, NW., Washington, DC 20001. Transporting *footwear,* from Laredo, TX, to Goldsboro, NC. (Hearing site: Columbus, OH.)

MC 147180 (Sub-2F), filed May 23, 1979. Applicant: GEORGE W. BURNETT, INC., 145 Ganson Street, Buffalo, NY 14202. Representative: John R. Hamlett, 2200 Main Place Tower, Buffalo, NY 14202. Transporting *cement,* from Buffalo, NY, to points in OH and PA. (Hearing site: Buffalo, NY, or Washington, DC.)

MC 123481 (Sub-6F), filed May 23, 1979. Applicant: BROWN LINE, INC., 22 First Street, West, Kalispell, MT 59901. Representative: Charles A. Webb, Suite 800-South, 1800 M St., N.W., Washington, DC 20036. Transporting *passengers and their baggage* in the same vehicle with passengers, in round-trip special operations, beginning and ending at points in Flathead, Lincoln, and Sanders Counties, MT, and extending to points in the United States (including AK, but excluding HI). (Hearing site: Kalispell, MT.)

MC 147270 (Sub-2F), filed May 29, 1979. Applicant: B & M TRANSIT CORPORATION, 15 N. Michigan Ave., Atlantic City, NJ 08401. Representative: Ira G. Megdal, 499 Cooper Landing Road, Cherry Hill, NJ 08002. Transporting *passengers and their baggage* in the same vehicle with passengers, in special and charter operations, limited to the transportation of not more than 11 passengers in any one vehicle, not including the driver, between Philadelphia International Airport, at Philadelphia, PA, on the one hand, and, on the other, points in Atlantic County, NJ. (Hearing site: Philadelphia, PA, or Camden, NJ.)

MC 147450F, filed May 29, 1979. Applicant: JAMES B. BARKLEY AND JULIA P. BARKLEY, d.b.a. BARKLEY TRAVEL SERVICE, 239 Bankhead St., New Albany, MS 38652. Representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. Transporting *passengers and their baggage* in the same vehicle with passengers, in special and charter operations, between points in MS, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Tupelo or Jackson, MS.)

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Decided: Oct. 24, 1979.

By the Commission, Review Board Number 2, Members Boyle, Liberman, and Eaton.

MC 340 (Sub-56F), filed May 29, 1979. Applicant: QUERNER TRUCK LINES, INC., 1131–33 Austin St., San Antonio, TX 78208. Representative: M. Ward Bailey, 2412 Continental Life Bldg., Fort Worth, TX 76102. Transporting *meats, meat products and meat byproducts, and articles distributed by meat packing-houses,* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Palestine, TX, to points in MI, OH, NJ, and NY. (Hearing site: Dallas or San Antonio, TX.)

MC 5470 (Sub-193F), filed May 29, 1979. Applicant: TAJON, INC., R.D. 5, Mercer, PA 16137. Representative: Brian L. Troiano, 918 16th St. NW., Washington, DC 20006. Transporting *silicon carbide,* in dump vehicles, from Hennepin, IL, to points in AR, GA, IN, IA, KY, LA, MI, MS, MO, NY, NC, OH, OK, PA, SC, TN, VA, WV, and WI. (Hearing site: Washington, DC, or Chicago, IL.)

MC 22311 (Sub-15F), filed May 30, 1979. Applicant: A LINE INC., 8135 Monroe St., Munster, IN 46321. Representative: Anthony E. Young, 29 S. LaSalle St., Suite 350, Chicago, IL 60603. Transporting (1) *iron and steel articles* (except commodities in bulk), and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above, (except commodities in bulk), between the facilities of Western Cold Drawn Steel, Division of Stanadyne Corp., at or near Gary, IN, on the one hand, and, on the other, points in NY and PA. (Hearing site: Chicago, IL.)

MC 22311 (Sub-22F), filed May 29, 1979. Applicant: A LINE INC., 8135 Monroe St., Munster, IN 46321. Representative: Anthony E. Young, 29 S. LaSalle St., Suite 350, Chicago, IL 60603. Transporting (1) *iron and steel articles;* and (2) *materials, equipment, and supplies* used in the manufacture of iron and steel articles (except commodities in bulk), between the facilities of Western Cold Drawn, Division of Stanadyne Corp., at or near Elyria, OH, on the one hand, and, on the other, points in WI, IL, MI, IN, KY, TN, WV, PA, NY, MN, IA, and MO. (Hearing site: Chicago, IL.)

MC 53841 (Sub-28F), filed May 22, 1979. Applicant: W. H. CHRISTIE & SONS, INC., Box 517, East State Street, Knox, PA 16232. Representative: John A. Pillar, 1500 Bank Tower, 307 Fourth Avenue, Pittsburgh, PA 15222. Transporting *paper, paper products, and materials, equipment and supplies* used in the manufacture and sale of paper and paper products (except commodities in bulk), between Philadelphia, PA, on the one hand, and, on the other, points in NY, OH, and PA. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 108341 (Sub-153F), filed May 29, 1979. Applicant: MOSS TRUCKING COMPANY, INC., 3027 N. Tryon St., P.O. Box 26125, Charlotte, NC 28213. Representative: Jack F. Counts (same address as applicant). Transporting *metal products,* from the facilities of United States Gypsum Company, at or near Franklin Park, IL, to those points in the United States in and east of MN, IA, MO, AR, and LA. (Hearing site: Chicago, IL, or Washington, DC.)

MC 108341 (Sub-155F), filed May 29, 1979. Applicant: MOSS TRUCKING COMPANY, INC., 3027 N. Tryon St., P.O. Box 26125, Charlotte, NC 28213. Representative: Jack F. Counts (same address as applicant). Transporting *power pumps and power pump parts,* from the facilities of The Nash Engineering Company, at or near St. Peters, MO, to those points in the United States in and east of OH, KY, TN, and AL. (Hearing site: Washington, DC.)

MC 108341 (Sub-158F), filed May 29, 1979. Applicant: MOSS TRUCKING COMPANY, INC., 3027 N. Tryon St., P.O. Box 26125, Charlotte, NC 28213. Representative: Jack F. Counts (same address as applicant). Transporting *lead, lead alloy, and lead products,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between the facilities of (a) Taracorp, (b) Seitzinger, Inc., and (c) Evans Metal

Company Divisions, at or near Atlanta, GA, on the one hand, and, on the other, those points in the United States in and east of MN, IA, MO, AR, and LA. (Hearing site: Atlanta, GA, or Washington, DC.)

MC 109490 (Sub-14F), filed May 21, 1979. Applicant: HEDING TRUCK SERVICE, INC., P.O. Box 97, Union Center, WI 53962. Representative: Ronald E. Laitsch, 113 N. 3rd Street, Watertown, WI 53094. Transporting (1) *snowthrowers and lawnmowers,* and (2) *accessories, attachments, and parts* for snowthrowers and lawnmowers, from Lake Mills and Johnson Creek, WI, to points in the United States (except AK and HI). (Hearing site: Milwaukee or Madison, WI.)

MC 111170 (Sub-260F), filed May 29, 1979. Applicant: WHEELING PIPE LINE, INC., P.O. Box 1718, El Dorado, AR 71730. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood, Fort Smith, AR 72902. Transporting *sodium hydro sulfide,* in bulk, in tank vehicles, from the facilities of Great Lakes Chemical Corp., at points in Union County, AR, to points in AL, KS, LA, MO, MS, NC, OK, TN, and TX. (Hearing site: Little Rock, AR, or Memphis, TN.)

MC 112520 (Sub-374F), filed May 29, 1979. Applicant: McKENZIE TANK LINES, INC., P.O. Box 1200, Tallahassee, FL 32302. Representative: Thomas F. Panebianco (same address as applicant). Transporting *chemicals,* in bulk, in tank vehicles, from Columbus, GA, to points in NC, SC, and TN. (Hearing site: Atlanta, GA.)

MC 113651 (Sub-306F), filed May 29, 1979. Applicant: INDIANA REFRIGERATOR LINES, INC., P.O. Box 552, Riggin Road, Muncie, IN 47305. Representative: Glen L. Gissing (same address as applicant). Transporting *canned and preserved foodstuffs,* from the facilities of Heinz USA, at or near Holland, MI, to points in AL, FL, GA, IL, IA, KS, LA, MN, MS, MO, SC, and WI, restricted to the transportation of traffic originating at the named facilities and destined to the indicated destinations. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 120761 (Sub-54F), filed May 15, 1979. Applicant: NEWMAN BROS. TRUCKING COMPANY, a corporation, 6559 Midway Road, P.O. Box 18728, Fort Worth, TX 76118. Representative: Clint Oldham, 1108 Continental Life Building, Fort Worth, TX 76102. Transporting *pipe,* and *materials, equipment and supplies,* used in the manufacture of pipe (except commodities in bulk), between the facilities of Maverick Tube Corporation, at or near Union, MO, on the one hand, and, on the other, points in AL, AZ, AR, CO, KS, LA, MS, NM, OK, TN, TX, and UT. (Hearing site: Dallas, TX.)

MC 124211 (Sub-363F), filed May 25, 1979. Applicant: HILT TRUCK LINE, INC., P.O. Box 988, D.T.S., Omaha, NE 68101. Representative: Thomas L. Hilt (same address as applicant). Transporting *materials, equipment, and supplies* used in the manufacture, operation, maintenance, and repair of motor vehicles (except commodities in bulk), between the facilities used by Trucks, Inc., (a) at Omaha, NE, (b) in Douglas, Sarpy, and Saunders Counties, NE, and (c) in Pottawattamie County, IA, on the one hand, and, on the other, points in the United States (except AK and HI), restricted against the transportation of motor vehicles in driveaway service. (Hearing site: Omaha, NE.)

Note.—Dual operations may be involved.

MC 127840 (Sub-107F), filed May 17, 1979. Applicant: MONTGOMERY TANK LINES, INC., 17550 Fritz Drive, P.O. Box 382, Lansing, IL 60438. Representative: William H. Towle, 180 North LaSalle Street, Chicago, IL 60601. Tranporting *animal fats, animal oils, and products and blends* of animal fats and animal oils, in bulk, in tank vehicles, from the facilities of Geo. A. Hormel & Co., at (a) Austin, MN, (b) Fremont, NE, and (c) Davenport, Fort Dodge, and Ottumwa, IA, to points in the United States (except AK and HI), restricted to the transportation of traffic originating at the named origins. (Hearing site: St. Paul, MN.)

MC 127840 (Sub-114F), filed May 29, 1979. Applicant: MONTGOMERY TANK LINES, INC., 17550 Fritz Drive, P.O. Box 382, Lansing, IL 60438. Representative: William H. Towle, 180 North LaSalle St., Chicago, IL 60601. Transporting *acids and chemicals,* from Denver, CO, to points in WY and NE. (Hearing site: Denver, CO.)

MC 127840 (Sub-115F), filed May 29, 1979. Applicant: MONTGOMERY TANK LINES, INC., 17550 Fritz Drive, P.O. Box 382, Lansing, IL 60438. Representative: William H. Towle, 180 North LaSalle St., Chicago, IL 60601. Transporting *tallow and animal grease,* in bulk, in bank vehicles, from points in IA and WI, to the facilities of Armak Chemical Co., at points in Grundy County, IL. (Hearing site: Chicago, IL.)

MC 133590 (Sub-21F), filed May 22, 1979. Applicant: WESTERN CARRIERS, INC., P.O. Box 925, Worcester, MA 01613. Representative: David M. Marshall, 101 State Street, Suite 304, Springfield, MA 01103. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *beverages,* and *materials, supplies, and equipment* used in the manufacture and distribution of beverages (except commodities in bulk), between points in NY and NJ, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contract(s) with All Brand Importers, Inc., of Rosyl Heights, NY. (Hearing site: New York, NY.)

MC 133590 (Sub-22F), filed May 29, 1979. Applicant: WESTERN CARRIERS, INC., P.O. Box 925, Worcester, MA 01613. Representative: David M. Marshall, 101 State St., Suite 304, Springfield, MA 01103. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *paper and paper products;* and (2) *materials and supplies* used in the manufacture and distributions of the commodities named in (1) above (except commodities in bulk), between points in MA, IL, TX, and UT, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contract(s) with American Pad & Paper Company, of Holyoke, MA. (Hearing site: Boston, MA.)

MC 133591 (Sub-69F), filed May 21, 1979. Applicant: WAYNE DANIEL TRUCK, INC., P.O. Box 303, Mount Vernon, MO 65712. Representative: Charles A. Daniel (same address as applicant). Transporting *processed milk products, containers,* and container parts, from Saint Joseph and Mount Vernon, MO, and mansfield, TX, to points in MN, WI, MI, IA, MO, TN, KY, IL, AR, LA, MS, TX, OK, KS, NE, ND, SD, MT, WY, CO, NM, AZ, IN, UT, ID, WA, OR, CA, and NV. (Hearing site: Los Angeles, CA, or Kansas City, MO.)

Note: Dual operations may be involved.

MC 133841 (Sub-12F), filed May 29, 1979. Applicant: DAN BARCLAY, INC., P.O. Box 426, Lincoln Park, NJ 07035. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Transporting (1) *machinery,* and (2) *materials, equipment, and supplies* used in the manufacture of machinery, between the facilities of Bobst-Champlain Co., at or near Roseland, NJ, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: New York, NY, or Washington, DC.)

MC 135070 (Sub-67F), filed May 29, 1979. Applicant: JAY LINES, INC., P.O. Box 30180, Amarillo, TX 79120. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. Transporting (1) *coffee and coffee products* (except commodities in bulk),

and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), between the facilities of The Procter & Gamble Distributing Company, at or near Sherman, TX, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Cincinnati, OH, or Amarillo, TX.)

Note.—Dual operations may be involved.

MC 140231 (Sub-8F), filed May 29, 1979. Applicant: LUMBER DISTRIBUTORS, INC., Building 149 Marsh St.—Southside, Port Newark, NJ 07114. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. Transporting wood products, and lumber, between New York, NY, on the one hand, and, on the other, points in CT, DE, MD, NJ, NY, and PA. (Hearing site: Newark, NJ, or New York, NY.)

MC 143031 (Sub-15F), filed May 16, 1979. Applicant: LLOYD PAUL MURPHY, JAMES EDWARD MURPHY, TIMOTHY PAUL MURPHY, AND EDWARD STEWART MURPHY, d.b.a. MURPHY & SONS, a partnership, Route 2, Box 139, Spring City, TN 37381. Representative: Stan Guthrie, Suite 500 Dome Building, 736 Georgia Avenue, Chattanooga, TN 37402. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *synthetic fiber yarn*, in containers, from the facilities of Chevron Chemical Company, at Dayton, TN, to points in CA, GA, NJ, and PA, under continuing contract(s) with Chevron Chemical Company, of Dayton, TN. (Hearing site: Nashville or Chattanooga, TN.)

MC 143891 (Sub-6F), filed May 21, 1979. Applicant: FLYING L TRUCKING CO., 1350 W. Potrero Road, P.O. Box 4942, Thousand Oaks, CA 91359. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. Transporting *such commodities* as are dealt in by manufacturers or converters of paper and paper products (except commodities in bulk), (1) from points in CA, OR, and WA, to points in ID, and (2) from points in WA, to points in Malheur and Umatilla Counties, OR. (Hearing site: Los Angeles, CA.)

MC 145481 (Sub-10F), filed May 29, 1979. Applicant: COYOTE TRUCK LINE, INC., 302 Cedar Lodge Road, P.O. Box 756, Thomasville, NC 27360. Representative: John T. Wirth, 717 17th St., Suite 2600, Denver, CO 80202. Transporting *confectionery* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from Boston, MA, to points in AZ, CA, CO, ID, NV, NM, OR, UT, and WA. (Hearing site: Boston, MA, or Washington, DC.)

Note.—Dual operations may be involved.

MC 146630 (Sub-2F), filed May 29, 1979. Applicant: SAWDUST SIERRA, INC., 2996 Timber Lane, Verona, WI 53593. Representative: Richard A. Westley, 4506 Regent St., Suite 100, Madison, WI 53705. Transporting *building brick*, from the facilities of Streator Brick Systems, Inc., at or near Streator, IL, to points in WI. (Hearing site: Chicago, IL, or Milwaukee, WI.)

MC 147461F, filed May 25, 1979. Applicant: FEDERAL ARMORED EXPRESS, INC., 7675 Canton Center Drive, Baltimore, MD 21224. Representative: Eugene T. Liipfert, Suite 1000, 1660 L St., N.W., Washington, DC 20036. Transporting *currency*, between Atlanta, GA, Baltimore, MD, Birmingham, AL, Boston, MA, Buffalo, NY, Charlotte, NC, Chicago, IL, Cincinnati and Cleveland, OH, Coral Gables and Jacksonville, FL, Culpeper and Richmond, VA, Dallas, El Paso, Houston, and San Antonio, TX, Denver, CO, Detroit, MI, Louisville, KY, Helena, MT, Kansas City and St. Louis, MO, Little Rock, AR, Los Angeles and San Francisco, CA, Memphis and Nashville, TN, Minneapolis, MN, New Orleans, LA, Oklahoma City, OK, Omaha, NE, Philadelphia and Pittsburgh, PA, Portland, OR, Salt Lake City, UT, Seattle, WA, and DC. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

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Decided: Oct. 27, 1979.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill. Member Hill not participating.

MC 80443 (Sub-22F), filed June 8, 1979. Applicant: OVERNITE EXPRESS, INC., 2550 Long Lake Rd., Roseville, MN 55113. Representative: Davie Rubenstein, 301 North Fifth St., Minneapolis, MN 55403. Transporting (1) *pet food* (except in bulk, in tank vehicles), from the facilities of Tuffy's Division of Star-Kist Foods, Inc., at or near Perham, MN, to points in the United States (except AK and HI); and (2) *materials, equipment, and supplies* used in the manufacture and distribution of pet food, (except commodities in bulk, in tank vehicles), in the reverse direction. (Hearing site: Minneapolis, MN.)

MC 99493 (Sub-7F), filed June 8, 1979. Applicant: CENTRAL STORAGE & TRANSFER CO. OF HARRISBURG, a Corporation, P.O. Box 2821, Harrisburg, PA 17105. Representative: Christian V. Graf, 407 North Front St., Harrisburg, PA 17101. Transporting *chemcials* (except in bulk), between the facilities of Cello Chemcial Company, at or near Havre de Grace, MD, on the one hand, and, on the other, points in Adams, Berks, Blair, Bucks, Carbon, Centre, Chester, Clinton, Columbia, Cumberland, Dauphin, Delaware, Franklin, Huntingdon, Juniata, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Lycoming, Mifflin, Monroe, Montgomery, Montour, Northampton, Northumberland, Perry, Philadelphia, Schuylkill, Snyder, Union, Wyoming, and York Counties, PA. (Hearing site: Washington, DC, or Harrisburg, PA.)

MC 106373 (Sub-47F), filed June 8, 1979. Applicant: THE SERVICE TRANSPORT CO., a Corporation, 114½ East Main St., Ravenna, OH 44266. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. Transporting *iron and steel articles*, from points in PA, OH, and WV, to the facilities of FMC Corporation, at or near Indianapolis, IN.

Note.—Applicant states it intends to tack with its authorized regular-route authority at points in OH, PA, and WV to provide a through service from regular-route points in MI and NY, to the facilities of FMC Corporation, at or near Indianapolis, IN. (Hearing site: Indianapolis, IN, or Washington, DC.)

MC 106603 (Sub-201F), filed June 8, 1979. Applicant: DIRECT TRANSIT LINES, INC., 200 Colrain St. SW., P.O. Box 8099, Grand Rapids, MI 49508. Representative: Martin J. Leavitt, 22375 Haggerty Rd., P.O. Box 400, Northville, MI 48167. Transporting *plywood and plywood wall paneling*, from Norfolk, VA, to points in DE, IL, IN, IA, KY, MD, MI, MO, NJ, NY, OH, PA, WV, and WI. (Hearing site: Washington, DC, or Chicago, IL.)

MC 107012 (Sub-378F), filed June 4, 1979. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant). Transporting *toys*, from the facilities of Mac Plastics, Inc., at or near Canonsburg and Houston, PA, to points in the United States (except AK, HI, and PA). (Hearing Site: Los Angeles or San Diego CA.)

MC 111812 (Sub-648F), filed June 7, 1979. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57101. Representative: R. H. Jinks (same address as applicant). Tranporting *welding rods, welding wire, wire metal alloys, castings, electric welders, parts for electric welders, and welding compounds*, from the facilities

of Stoody Company, at City of Industry and Santa Fe Springs, CA to points in AR, CO, IL, IN, IA, KS, MN, MO, NE, NM, ND, OK, SD, TN, TX, UT, WI, and WY restricted to the transportation of traffic originating at the named origin facilities. (Hearing Site: Los Angeles, CA.)

MC 111812 (Sub-649F), filed June 7, 1979. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57101. Representative: R. H. Jinks (same address as applicant). Tranporting *electric ranges and microwave ovens,* (1) from the facilities of Litton Microwave Cooking Products, at Sioux Falls, SD, to points in MD, NV, NJ, NY, NC, PA, SC, TX, and VA, and (2) from the facilities of Litton Microwave Cooking Products, at (a) Sioux Falls, SD, and (b) Minneapolis, MN, to points in FL. (Hearing Site: Minneapolis, MN.)

MC 111812 (Sub-653F), filed June 7, 1979. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57101. Representative: R. H. Jinks (same address as applicant). Tranporting (1) *welders, parts for welders, welder systems, and welding compounds,* and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk, in tank vehicles, and those which because of size and weight require the use of special equipment), between the facilities of the Stoody Company and Stoody International Company, at or near Pittsburgh, PA, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing Site: Los Angeles, CA.)

MC 114632 (Sub-238F), filed June 8, 1979. Applicant: APPLE LINES, INC., a NE Corporation, P.O. Box 287, Madison, SD 57042. Representative: David E. Peterson (same address as applicant). Transporting *frozen foodstuffs,* between Indianapolis, IN, on the one hand, and, on the other, points in CO, CT DE, ID, IL, IA, KS, KY, ME, MD, MA, MI, MN, MO, MT, NE, NH, NJ, NY, ND, OH, PA, RI, SD, TN, UT, VT, VA, WV, WI, WY, and DC, restricted to the transportation of traffic originating at or destined to the facilities of Monument Distribution Warehouse, Inc., at Indianapolia, IN. (Hearing site: Indianapolis, IN, or Chicago, IL.)

Note.—Dual operations may be involved.

MC 114632 (Sub-239F), filed June 8, 1979. Applicant: APPLE LINES, INC., P.O. Box 287 Madison, SD 57042. Representative: David E. Peterson (same address as applicant). Transporting *frozen foods,* from the facilities of General Foods Corporation, at Avon and Fulton, NY, to Chicago, IL and Bettendorf, IA, restricted to the transportation of traffic originating at the named origins and destined to the named destinations. (Hearing site: New York, NY, or Chicago, IL.)

Note.—Dual operations may be involved.

MC 118142 (Sub-229F), filed June 7, 1979. Applicant: M. BRUENGER & CO., INC., 6250 North Broadway, Wichita, KS 67219. Representative: Lester C. Arvin, 814 Century Plaza Bldg. Wichita, KS 67202. Transporting (1) *bananas,* and (2) *agricultural commodities,* which are otherwise exempt from economic regulation under 49 U.S.C. § 10526(a)(6) (1978), in mixed loads with bananas, from the facilities of Del Monte Banana Company, at Port Hueneme, CA, to points in AZ, CO, IA, ID, KS, MO, MT, NE, ND, NM, OR, SD, TX, UT, WA, and WY, restricted to the transportation of traffic having a prior movement by water. (Hearing site: Los Angeles, CA, or Washington, DC.)

Note.—Dual operations may be involved.

MC 123502 (Sub-53F), filed June 7, 1979. Applicant: FREE STATE TRUCK SERVICE, INC., P.O. Box 760, Glen Burnie, MD 21061. Representative: W. Wilson Corroum (same address as applicant). Transporting *petroleum fuel oil flue dust,* in bulk, in dump vehicles, from Oswego, NY, and Portsmouth, Strasburg, and Yorktown, VA to Bellaire, OH, and Freeport and West Elizabeth, PA. (Hearing site: Washington, DC, or New York, NY.)

MC 128672 (Sub-7F), filed June 7, 1979. Applicant: TIMBER TRUCKING CO., INC., P.O. Box 231, Ripley, WV 25271. Representative: Ralph McDonald P.O. Box 2246, Raleigh, NC 27602. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber, timber, and wood products,* from the facilities of the Burke-Parsons-Bowlby Corporation, at or near Leland, NC, to points in AL, CT, DE, FL, GA, IL, IN, KY, ME, MD, MA, MI, MS, NH, NJ, NY, OH, PA, RI, SC, TN, VT, VA, WV, and DC, under continuing contract(s) with The Burke-Parsons-Bowlby Corporation, of Ripley, WV. (Hearing site: Wilmington or Raleigh, NC.)

MC 139602 (Sub-3F), filed May 4, 1979. Applicant: WIERSEMA CHARTER SERVICE, INC., R.R. No. 2, Morrison, IL 61270. Representative: Allan C. Zuckerman, 39 South LaSalle St., Chicago, IL 60603. Transporting *passengers and their baggage,* in the same vehicle with passengers, in special operations, beginning and ending at points in Stephenson, Carroll, Whiteside, Fulton, Bureau, and Henry Counties, IL, and extending to points in the United States (including AK and HI). (Hearing site: Chicago, IL.)

MC 140083 (Sub-3F), filed June 7, 1979. Applicant: FLORENCE N. SOBEL, INC., a NY corporation, d.b.a. GENTRY FORWARDING COMPANY, 3445 Paterson Plank Rd., N. Bergen, NJ 07047. Representative: Lawrence L. Lindeman, Pennsylvania Ave. & 13th St. NW., Suite 1032, Washington, DC 20004. Transporting *trailers* (except those designed to be drawn by passenger automobiles), *containers, and trailer chassis,* (1) between points in PA, NY, and NJ, (2) between points in PA, NY, and NJ, on the one hand, and, on the other, points in CT, DE, ME, MD, MA, NH, RI, VA, and VT, and (3) between Norfolk, VA, and Baltimore, MD. (Hearing site: Newark, NJ.)

MC 140563 (Sub-26F), filed March 29, 1979. Applicant: W. T. MYLES TRANSPORTATION CO., a corporation, P.O. Box 321, Conley, GA 30027. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. Transporting (1) *paper and paper products,* (2) *plastic and plastic products,* (3) *chemicals,* (4) *materials, supplies and equipment* used in the manufacture and distribution of the commodities in (1), (2) and (3), above, (except commodities in bulk), between points in the United States (except AK and HI). (Hearing site: Atlanta, GA.)

Note.—Dual operations are involved.

MC 141823 (Sub-8F), filed June 7, 1979. Applicant: GLASS CONTAINER TRANSPORT, INC., Route 1, Box 271, Ridgeway, SC 29130. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *malt beverages,* (except commodities in bulk), from the facilities of Anheuser-Busch, Inc., at or near Williamsburg, VA, to points in GA, NC, and SC, under continuing contract(s) with Anheuser-Busch, Inc., of St. Louis, MO. (Hearing site: Atlanta, GA.

Note.—Dual operations may be involved.

MC 146032 (Sub-4F), filed June 7, 1979. Applicant: SKYCAB, INC., 137 North 4th St., Philadelphia, PA 19106. Representative: Steven M. Tannenbaum, 133 North 4th St., Philadelphia, PA 19106. Transporting (1) *pharmaceuticals and radioactive medicines,* and (2) *materials and supplies* used in the distribution and use of the commodities in (1) above, (except commodities in bulk), between points in the United States (except AK and HI). Condition:

To the extent the certificate granted in this proceeding authorizes radioactive medicines, it will expire 5 years from the date of issuance. (Hearing site: Philadelphia, PA.)

MC 146293 (Sub-26F), filed June 8, 1979. Applicant: REGAL TRUCKING CO., INC., 95 Lawrenceville Ind. Park Circle, NE, Lawrenceville, GA 30245. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Blvd., Atlanta, GA 30349. Transporting (1) *charcoal, charcoal briquettes, grills, and lighter fluid,* (except commodities in bulk), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), between Gary, IN, Pachuta, MS, and Branson, MO, on the one hand, and, on the other, those points in the United States on and east of U.S. Hwy 85. (Hearing site: Atlanta, GA.)

MC 14673 (Sub-14F), filed June 7, 1979. Applicant: ROBERTS & OAKE, INC., 4240 Blue Ridge Blvd., Blue Ridge Tower, Suite 820, Kansas City, MO 64133. Representative: Terrence D. Jones, 2033 K St., NW, Suite 300, Washington, DC 20006. Transporting (1) *glassware, glass-ceramic ware, laminated glassware, and electrical appliances,* and (2) *parts and accessories* for the commodities in (1) above, from Greencastle and Charleroi, PA, to points in AR, IA, KS, MN, MO, NE, ND, OK, SD, TX, and WI. NOTE: Applicant intends to rely on rate issues in this proceeding. (Hearing site: Washington, DC.)

MC 146892 (Sub-5F), filed June 8, 1979. Applicant: R & L TRANSFER, INC., P.O. Box 271, Wilmington, OH 45177. Representative: Boyd B. Ferris, 50 West Broad St., Columbus, OH 43215. Transporting *such commodites* as are dealt in or used by manufacturers of electrical hardware, components for electrical hardware, and emergency equipment and supplies, (except commodities in bulk), between Wilmington, OH, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Columbus or Cincinnati, OH.)

MC 147583F, filed June 7, 1979. Applicant: MICHAEL J. FITZGIBBON and DOYLE L. WALKER, a partnership, d.b.a. FITZ FREIGHT SPECIAL COMMODITIES, 202 North 161 East Ave., Tulsa, OK 74138. Representative: Michael R. Vanderburg, 5200 South Yale, Suite 400, Tulsa, OK 74135. To operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting *steel products,* between the facilities of (a) S & S Alloys, Inc., at Tulsa, OK and (b) Steel Processing & Supply Company, at Catoosa, OK, on the one hand, and, on the other, points in AR, KS, MO, and TX, under continuing contract(s) with S & S Alloys, Inc., of Tulsa, OK, and Steel Processing & Supply Company, of Catoosa, OK. (Hearing site: Tulsa, OK.)

MC 148573F, filed May 30, 1979. Applicant: SHEA/RUSTIN TRANSPORT COMPANY, a corporation, P.O. Box 93567, Martech Station, Atlanta, GA 30318. Representative: Frank D. Hall, Suite 713, 3384 Peachtree Re. NE., Atlanta, GA 30326. Transporting (1) *chemicals, chemical compounds, antifreeze, plastics and plastic products,* (except commodities in bulk), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), between the facilities of Northern Petrochemical Company, at or near (a) Mankato, MN, (b) Newark, OH, (c) Clinton, MA, and (d) Chicago, Morris, and Mapleton, IL, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Atlanta, GA, or Washington, DC.)

Note.—Dual operations may be involved.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-35664 Filed 11-19-79; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 311]

Expedited Procedures for Recovery of Fuel Costs

Decided: November 14, 1979.

In our decisions of September 11, 18, 25, October 2, 9, 16, 23, 30, and November 6, 1979, a 9.5-percent surcharge was authorized on all owner-operator traffic, and on all truckload traffic whether or not owner-operators were employed. We ordered that all owner-operators were to receive compensation at this level.

The weekly figures set forth in the appendix for transportation performed by owner-operators and for truckload traffic is 10-percent. As such, we are authorizing a 10-percent surcharge on this traffic. Owner-operators are to receive compensation at this level. No change will be made in the existing authorization of a 1.7-percent surcharge on less-than-truckload traffic (LTL) performed by carriers not utilizing owner-operators, nor in the existing authorization of a 3.7-percent surcharge for the bus carriers.

Notice shall be given to the general public by mailing a copy of this decision to the governor of each State and the Public Utilities Commissions or Boards of each State having jurisdiction over transportation, by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection, and by delivering a copy to the Director, Office of the Federal Register, for publication therein.

It is ordered: This decision shall become effective Friday, 12:01 a.m., November 16, 1979.

By the Commission, Chairman O'Neal, Vice Chairman Stafford, Commissioners Gresham, Clapp, Christian, Trantum, Gaskins, and Alexis. Vice Chairman Stafford absent and not participating.

Agatha L. Mergenovich,

Secretary.

November 13, 1979.

Appendix.—*Fuel Surcharge*

Base Date and Price Per Gallon (Including Tax)		
January 1, 1979		63.5¢
Date of Current Price Measurement and Price Per Gallon (Including Tax)		
November 13, 1979		101.1
Average Percent: Fuel Expenses (including Taxes) of Total Revenue		
(1) From Transportation Performed by Owner Operators (Apply to All Truckload Rated Traffic)	(2) Other (Including Less-Truckload Traffic)	(3) Bus Carriers
16.9%	2.9%	6.3%
Percent Surcharge Developed		
10.0%	1.7%	3.7%
Percent Surcharge Allowed		
10%	1.7%	3.7%

November 13, 1979.

Bureau of Accounts.—*Diesel Fuel—Prices and Index Selling Price at Pump—Full Service—Cash January 1979=100*

Date	Excluding taxes		Including taxes	
	Price	Index	Price	Index
1/1/79[1]	50.7	100.0	63.5	100.0
8/27/79[2]	85.2	168.0	98.3	154.8
9/4/79	86.8	171.2	99.9	157.3
9/10/79	87.0	171.6	100.1	157.6
9/17/79	87.1	171.8	100.2	157.8
9/24/79	87.1	171.8	100.2	157.8
10/1/79	86.8	171.2	99.9	157.3
10/9/79	87.0	171.6	100.1	157.6
10/15/79	87.2	172.0	100.3	158.0
10/22/79	87.3	172.2	100.4	158.1
10/29/79	87.4	172.4	100.5	158.3
11/5/79	87.3	172.0	100.4	158.1
11/13/79	88.0	173.6	101.1	159.2

[1] January 1, 1979 base price figures of 50.8¢ and 63.6¢ changed to 50.7¢ and 63.5¢ on 7/2/79 due to minor correction from one reporting station.

[2] 8/27/79 figures of 85.3 and 98.4 changed to 85.2 and 98.3 on 9/4/79 due to reporting correction.

[FR Doc. 79-35661 Filed 11-19-79; 8:45 am]

BILLING CODE 7035-01-M

[Directed Service Order No. 1398]

Kansas City Terminal Railway Co.—Directed To Operate Over—Chicago, Rock Island & Pacific Railroad Co., Debtor (William M. Gibbons, Trustee); Corrected Notice

November 6, 1979.

Notice to the parties: This is to correct an error in the Notice served November 6, 1979, [44 FR 65854, Nov. 15, 1979] regarding the "effective" and "expiration" dates of the initial 60-day directed service period under DSO No. 1398, *Kansas City Term. Ry. Co.—Operate—Chicago, R. I. & P.*, 360 I.C.C. 289 (1979) and 44 FR 56343 (October 1, 1979).

As correctly stated in the prior Notice, the "effective" date was 12:01 a.m. (central time) *Friday, October 5, 1979.* However, the correct "expiration" date is 11:59 p.m. (central time) *Monday, December 3, 1979.*

Please make note of the above correction.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-35659 Filed 11-19-79; 8:45 am]

BILLING CODE 7035-01-M

[Directed Service Order No. 1398; Authorization Order No. 10]

Kansas City Terminal Railway Co.—Directed To Operate Over—Chicago, Rock Island & Pacific Railroad Co., Debtor (William M. Gibbons, Trustee)

Decided: November 14, 1979.

On September 26, 1979, the Commission directed Kansas City Terminal Railway Company (KCT) to provide service as a directed rail carrier (DRC) under 49 U.S.C. 11125 over the lines of Chicago, Rock Island & Pacific Railroad Company, debtor (William M. Gibbons, Trustee) ("RI"). *See* Directed Service Order No. 1398, *Kansas City Term. Ry. Co.—Operate—Chicago, R.I. & P.*, 360 I.C.C. 289 (1979), 44 FR 56343 (October 1, 1979).

RI owns a certain bridge (Bridge No. 1650; open deck) which is in need of substantial rehabilitation. DSO No. 1398 required the DRC to obtain prior approval for rehabilitation of lines and related facilities which exceeds $5,000 per mile. *See* DSO 1398, 360 I.C.C. at 303 [44 FR 56347, last column, 56348, 1st column]. Accordingly, the DRC submitted a detailed statement of repairs needed to Bridge 1650 located 7.7 miles south of Shell Rock, IA, requiring repairs costing $10,487.75. *See* "DRC Report No. 9" (dated November 1, 1979).

The DRC seeks Commission authorization to repair Bridge 1650 on the grounds that: (1) The bridge is essential to the operation over the RI between Waterloo and Manly, IA; (2) Rehabilitation of Bridge 1650 will permit resumption of through train service to "captive" shippers between Waterloo and Manly, IA; and (3) Restoration of service over that line will realize certain efficiencies and economies by transit time caused by rerouting traffic, eliminating backhaul of traffic, and reducing time consumed in deadheading crews to Manly, IA.

Bridge 1650 is located on the RI line between Waterloo and Manly, IA, and is impassable. The DRC has been rerouting through-traffic which ordinarily moves over this line to Cedar Rapids, IA, and points east via other railroads. This constitutes a substantial loss in freight revenues.

We find:

1. This action will not significantly affect either the quality of the human enviroment or the conservation of energy resources. *See* 49 CFR Parts 1106, 1108 (1978).

It is ordered:

1. The DRC is authorized to make repairs to RI Bridge 1650 located 7.7 miles south of Shell Rock, IA, in Bremer County. The total cost authorized for repairs is:

Materials	$6,184.00
Labor	[1] 3,912.50
Contingencies 10%	391.25
Total	$10,487.75

[1] Five gang days at $782.50.

2. The repairs authorized above must be completed within the initial 60-day directed-service period.

3. This decision shall be effective on its service date.

By the Commission, Railroad Service Board, Members Joel E. Burns, Robert S. Turkington, and John R. Michael, Joel E. Burns not participating.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-35660 Filed 11-19-79; 8:45 am]

BILLING CODE 7035-01-M

Transportation of Used Household Goods in Connection With a Pack-and-Crate Operation on Behalf of the Department of Defense; Special Certificate Letter Notice

The following letter notices request participation in a Special Certificate of Public Convenience and Necessity for the transportation of used household goods, for the account of the United States Government, incident to the performance of a pack-and-crate service on behalf of the Department of Defense under the Direct Procurement Method or the Through Government Bill of Lading Method under the Commission's regulations (49 CFR 1056.40) promulgated in "Pack-and-Crate" operations in Ex Parte No. MC-115, 131 MC.C. 20 (1978).

An original and one copy of verified statement in opposition (limited to argument and evidence concerning applicant's fitness) may be filed with the Interstate Commerce Commission on or before December 10, 1979. A copy must also be served upon applicant or its representative. Opposition to the applicant's participation will not operate to stay commencement of the proposed operation.

If applicant is not otherwise informed by the Commission, operations may commence on or before December 20, 1979, subject to its tariff publication effective date.

HG-27-79 (Special Certificate—Used Household), filed October 16, 1979. Applicant: LINCOLN LAND MOVING & STORAGE, INC., P.O. Box 1190, Number one Lincoln Land Way, Champaign, IL 61820. Representative: J. W. Anderson (same address as applicant). Authority Sought: Between points in Champaign, Clark, Coles, Cumberland, Douglas, Edgar, Ford, Iroquois, Vermillion, Kankakee, Livingston, Marshall, Greene, McDonough, Morgan, Pike, Schuyler, Scott, Logan, Macon, Menard, Moultrie, Piatt, Sangamon, Shelby, Adams, Calhoun, Gass, Fulton, McLean, Peoria, Stark, Tazewell, Woodford, Christian, DeWitt, Mason, Hancock, and Brown counties, IL, serving Chanute Air Force Base, IL.

By the Commission

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-35662 Filed 11-19-79; 8:45 am]

BILLING CODE 7035-01-M

Transportation of "Waste" Products for Reuse or Recycling; Special Certificate Letter Notices

The following letter notices request participation in a Special Certificate of Public Convenience and Necessity for the transportation of "waste" products for reuse or recycling in furtherance of a recognized pollution control program under the Commission's regulations (49 CFR 1062) promulgated in *"Waste" Products*, Ex Parte No. MC-85, 124 M.C.C. 583 (1976). Requests are processed as seeking authority between all points in the United States.

An original and one copy of protests (including protestant's complete argument and evidence) against applicant's participation may be filed with the Interstate Commerce Commission on or before December 10,

1979. A copy must also be served upon applicant or its representative. Protests against the applicant's participation will not operate to stay commencement of the proposed operation.

If the applicant is not otherwise informed by the Commission, operations may commence on or before December 20, 1979, subject to its tariff publication effective date.

PM–12–79 (Special Certificate—Waste Products), filed September 30, 1979. Applicant: B & G TRUCKING, INC., 77 East Wilson Bridge Rd., Worthington, OH 43085. Representative: Stephen J. Habash, 100 E. Broad St., Columbus, OH 43215. Sponsors: Container Corporation of America, of Carol Stream, IL. St. Regis Paper Company, of Coshocton, OH, Battle Creek, MI, and York, PA.

P–13–79 (Special Certificate—Waste Products), filed October 11, 1979. Applicant: SHARKEY TRANSPORTATION, INC., 3803 Dye Road, Quincy, IL 62301. Representative: James R. Ponsot (address same as applicant). Sponsor: Carl L. Steiner, 39 So LaSalle St., Chicago, IL 60603. Quad-County Recyclers, Inc., RR #4, Box 3060, West Burlington, IA 52655. Commodities: Waste Products.

P–14–79 (Special Certificate—Waste Products), filed October 2, 1979. Applicant: CAUSTIC SODA TRANSPORTATION CO., 792½ Haywood Rd., Asheville, NC 28806. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th St. NW., Washington, DC 20004. Sponsors: The Mead Corporation, of Dayton, Ohio. Champion International, of Hamilton, Ohio. Olin Corporation of Pisgah Forest, NC. Commodities: Waste Products.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79–35663 Filed 11–19–79; 8:45 am]

BILLING CODE 7035–01–M

Sunshine Act Meetings

Federal Register
Vol. 44, No. 225
Tuesday, November 20, 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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[M-255, Amdt. 4, Nov. 14, 1979]

CIVIL AERONAUTICS BOARD.

Notice of closure and renumbering of item to the November 15, 1979, meeting agenda.

TIME AND DATE: 9:30 a.m. (open)—3:00 p.m. (closed)—November 15, 1979.

PLACE: Room 1027 (open), Room 1011 (closed), 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

SUBJECT: 33. (Formerly Item 18) Docket 33634, Aeroamerica, Inc., Exemption to operate scheduled air transportation between Seattle/Portland and Honolulu. (Memo 8248-H, BDA.)

STATUS: Closed.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: On Wednesday, November 14, 1979, it was determined that the staff's recommended course of action to the Board should be changed. The new recommendation is more likely to necessitate discussion of audit material and confidential business information than was previously the case. Accordingly, the following Members have voted that agency business requires that the Board meet on this item on less than seven days' notice and that no earlier announcement of this meeting was possible:

Chairman, Marvin S. Cohen
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

Discussion of this matter will involve the results of audit conducted under the authority of Section 407(e) of the Federal Aviation Act, 49 U.S.C. 1377(e) Section 902(f) of the Act, 49 U.S.C. 1472(e) prohibits disclosure of this material absent a Board order. Section 902(f) is a statute within the meaning of Exemption 3(b) of the Sunshine Act. Additionally, the discussion will involve commerical or financial information obtained from a person and privileged and confidential within the meaning of Exemption 4 of the Sunshine Act. So that no unnecessary public disclosure of protection information take place during the course of our consideration of this matter we have determined to discuss it in closed session. Accordingly, the following Members have voted that this discussion concerns matters within the scope of Exemptions 3(b) and 4 of the Government in the Sunshine Act, 5 U.S.C. 552b (3)(B) and (4), and within 14 CFR Section 310b.5 (3)(B) and (4) of the Board's regulations and that the meeting will be closed:

Chairman, Marvin S. Cohen
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

Persons Expected To Attend

Board Members.—Chairman, Marvin S. Cohen; Member, Richard J. O'Melia; Member, Elizabeth E. Bailey; and Member, Gloria Schaffer.
Assistants to Board Members.—Mr. David Kirstein, Mr. James L. Deegan, Mr. Daniel M. Kasper, and Mr. Stephen H. Lachter.
Managing Director.—Mr. Cressworth Lander.
Executive Assistant to the Managing Director.—Mr. John R. Hancock.
Office of the General Director.—Mr. Michael E. Levine and Mr. Steven A. Rothenberg.
Bureau of Domestic Aviation.—Ms. Barbara A. Clark, Mr. James A. Saltsman, Mr. Curtis B. Maloy, Ms. Patricia T. Szrom, and Mr. John R. McCamant.
Bureau of International Aviation.—Mr. Sanford Rederer, Mr. Douglas Leister, and Mr. Vance Fort.
Office of the General Counsel.—Ms. Mary Schuman, Mr. Gary Edles, Mr. Michael Schopf, and Mr. William F. Adler.
Office of Economic Analysis.—Mr. Robert H. Frank and Mr. Robert Preece.
Bureau of Consumer Protection.—Mr. Reuben B. Robertson, Mr. Howard Schemeltzer, and Mr. Glenn Wienhoff.
Bureau of Carrier Accounts and Audits.—Mr. Raymond Kurlander and Mr. Roy E. Thompson.
Office of the Secretary.—Mrs. Phyllis T. Kaylor, Ms. Deborah A. Lee, and Ms. Louise Patrick.

General Counsel Certification

I certify that this meeting may be closed to the public under 5 U.S.C. 552b (3)(B) and (4), and within 14 CFR Section 310b.5 (3)(B) and (4) and that the meeting may be closed to the public observation.

Gary J. Edles,
Deputy General Counsel.

[S-2252-79 Filed 11-15-79; 4:33 pm]

BILLING CODE 6320-01-M

2

[M-256, Nov. 14, 1979]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 9:30 a.m., November 21, 1979.

PLACE: Room 1027, (open), Room 1011 (closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of Items adopted by notation.
2. Dockets 36461 and 36462; Ozark's notices under section 401(j)(1) of intent to terminate its certificate obligation at Sterling/Rock Falls and Galesburg, Illinois, respectively. (BDA, OCCR)
3. Docket 36971 and 36811; Sixty Day Notice of Air New England for suspension of nonstop or single plane service in eight markets; application of Air New England for an exemption from the notice requirement. (BDA)
4. Dockets 36590, 36760, 36757, 36742, 36684, 36753, 36733, 36763, 36762, 36761, 36743, 36730, 36699, and 36744; Northeast/Ohio Valley-Florida Show-Cause Proceeding. (BDA)
5. Dockets 35744, 35968, 35969, 35971, 35978, and 35976; *Pacific Northwest-St. Louis-East Show Cause* Proceeding. (BDA)
6. Dockets 36805 and 36928—Applications of Texas International and Ozark Air Lines for restriction removal under Subpart Q in the Houston-Tulsa market. (BDA).
7. Dockets 36401, 36612, 36819, 36581, and 36585; Applications of Continental, Ozark, Piedmont, USAir and Western for Wichita authority. (Memo 9287, DBA)
8. Dockets 36514, 36775, and 36627, applications of Continental, Western and USAir for (formerly Allegheny) for Denver-Cleveland/Pittsburgh/New York (LGA and JFK)/ Newark authority. (Memo 9290, BDA)
9. Docket 34772, Cancellation of Rule 1(G), CAB No. 352 (formerly CAB No. 142), and similar tariff rules that state that no employees or agents of carriers have authority to waive or modify tariff provisions. (BDA, BCP)
10. Docket 34435, Cancellation of Air Carrier Rules Pertaining to Transportation of Certain Categories of Passengers. (BCP, BDA, OGC)
11. Dockets 33686, 33687, and 33363; Application of Air America Incorporated for charter air transportation certificates, Order on discretionary review. (Memo 7690-P, OGC)

12. Docket 28262, *Air Midwest Certification Proceeding*—On remand from the Court of Appeals. (Memo 6553–C OGC)

13. Docket 35352, Pan American's application for redesignation of its point on Route 132 "Balboa, Canal Zone-Panama City, Panama" as "Panama City, Panama." (Memo 9291, BIA, OGC, BALJ)

14. Docket 36766, United States—Costa Rica Show Cause Proceeding, Final Order. (BIA)

15. Forthcoming Informal Consultations with Spain Scheduled for Late November. (Memo 9289, BIA)

STATUS: Open (Items 1–14); Closed (Item 15).

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673–5068.

SUPPLEMENTARY INFORMATION: This memo concerns strategy and positions that may be taken by the United States in negotiations with Spain. Public disclosures, particularly to foreign governments, of opinions, evaluations, and strategies relating to the issues could seriously compromise the ability of the United States Delegation to achieve agreements which would be in the best interest of the United States. Accordingly, the following Members have voted that the meeting on this subject would involve matters the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action within the meaning of the exemption provided under 5 U.S.C. 552b(c)(9)(B) and 14 CFR Section 310b.5(9)(B) and that any meeting on this item should be closed:

Chairman, Marvin S. Cohen
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

Persons Expected To Attend

Board Members.—Chairman, Marvin S. Cohen; Member, Richard J. O'Melia; Member, Elizabeth E. Bailey; and Member Gloria Schaffer.

Assistants to Board Members.—Mr. David Kirstein, Mr. James L. Deegan, Mr. Daniel M. Kasper, Mr. Stephen H. Lachter.

Managing Director.—Mr. Cressworth Lander.

Executive Assistant to the Managing Director.—Mr. John R. Hancock.

Office of the General Director.—Mr. Michael E. Levine and Mr. Steven A. Rothenberg.

Bureau of International Aviation.—Mr. Sanford Rederer, Mr. Vance Fort, Mr. Douglas Leister, Ms. Mary I. Pett, Mr. Ivars V. Mellups, Mr. Francis S. Murphy, and Mr. John A. Driscoll.

Office of the General Counsel.—Ms. Mary Schuman, Mr. Gary Edles, and Mr. Peter Schwarzkopf.

Office of Economic Analysis.—Mr. Robert H. Frank.

Bureau of Consumer Protection.—Mr. Reuben B. Robertson, Mr. John T. Golden, and Ms. Patricia J. Kennedy.

Office of the Secretary.—Mrs. Phyllis T. Kaylor, Ms. Deborah A. Lee, and Ms. Louise Patrick.

General Counsel Certification

I certify that this meeting may be closed to the public under 5 U.S.C. 552b(c)(9)(B) and 14 CFR Section 310b.5(9)(B) and that the meeting may be closed to the public observation:

Gary J. Edles,

Deputy General Counsel.

[S–2253–79 Filed 11–15–79; 4:33 pm]

BILLING CODE 6320–01–M

3

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 2:00 p.m., Tuesday, November 20, 1979.

PLACE: Room 856, 1919 M Street, N.W., Washington, D.C.

STATUS: Open Commission Meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

General—1—Title: Application for Review of a ruling by the Chief, Broadcast Bureau, denying a Freedom of Information Act request by Alaskans for Better Media for inspection of the 1974–1978 annual financial reports of five broadcast stations licensed to Northern Television, Inc. Summary: At issue is whether the annual financial reports are exempt from mandatory disclosure under the FOIA and if so whether the annual financial reports should nevertheless be released on the basis that the licensee has placed its financial condition in issue in a Commission proceeding.

General—2—Title: Memorandum Opinion and Order in response to Roper petition for reconsideration permitting immediate marketing of induction cooking range. Summary: The Commission considers a petition filed by the Roper Corporation on September 14, 1979, requesting reconsideration of only the February 1, 1980 effective date of the new regulations for induction cooking ranges adopted August 1, 1979 in the First Report and Order in FCC Docket 20718.

Private Radio—1—Title: Administration of telegraphy examinations to handicapped applicants for Amateur operator licenses. Summary: The FCC will consider what course of action to follow with regard to administering telegraph examinations to certain handicapped persons applying for Amateur radio operator licenses. Options for consideration are: (1) retention of present telegraph speeds for the handicapped; (2) amendment of rules to reduce telegraph speed requirement; (3) creation of a codeless Amateur operator license for handicapped persons only; and, (4) rule waivers to allow a handicapped person to take telegraph test at a slower speed.

Private Radio—2—Title: Second Report and Order to amend Parts 90 and 95 (General Mobile Radio stations only) of the Commission's Rules to replace the low-pass filtering requirement with a revised emission limitation standard (Docket 21142). Summary: The FCC will consider revised technical standards for transmitters that operate under Parts 90 and 95 (General Mobile Radio stations only) of the Commission's Rules. The new rules would authorize the use of transmitters without the low-pass filters for analog voice, digital voice, automatic vehicle monitoring and high bit rate transmissions if the transmitters would comply with the emission limitation standards proposed by the Commission in the Docket.

Private Radio—3—Title: Notice of Proposed Rule Making to permit operation of paging stations using F9Y emission by persons who are deaf or who have other physical handicaps. Summary: The FCC proposes to permit operation of paging stations using digital techniques by the deaf, deaf-blind, and others who have severe physical handicaps. Two frequencies are proposed to be allocated for this purpose 35.02 and 43.64 MHz. Existing licensees on these frequencies would not be displaced.

Private Radio—4—Title: Rule making to revise Part 97 of the Amateur-Satellite Service. Summary: The FCC will consider whether to adopt or deny a Notice of Proposed Rule Making to revise Part 97 of the Amateur Radio Service to provide for the Amateur-Satellite Service.

Private Radio—5—Title: Eligibility of the Organization of American States (OAS) for licensing in the General Mobile Radio Service. Summary: Application by the OAS for a license in the General Mobile Radio Service (Subpart A of Part 95 of the Commission's Rules) for the operation of a two-way communication system, pursuant to Section 310 of the Communications Act, 47 U.S.C. § 310.

Common Carrier—1—Petitions for Reconsideration of Orders which granted with modified conditions the applications of General Telephone and Electronics Corp. to acquire control of Telenet and its wholly owned subsidiary Telenet Communications Corporation. The Commission is considering Petitions for Reconsideration of Orders entered May 11, 1979 and June 13, 1979 in the application of General Telephone and Electronics Corporation to Acquire Control of Telenet Corporation and its Wholly-owned Subsidiary Telenet Communications Corporation. The issues before us are whether a sufficient rational basis exists to justify the modification of the conditions; whether prohibited *ex parte* communications tainted the proceeding; whether due process was afforded the interested parties.

Common Carrier—2—Title: RCA American Communications, Inc. and Alascom, Inc. applications for authority to jointly construct and operate domestic satellite space stations and earth stations in connection with the provision of Alaskan comunications services. Summary: The Commission will consider the applications of RCA American Communications, Inc. and Alascom, Inc. to operate space and earth segment satellite facilities in connection with the provision of communications services to Alaska. Among the issues to be considered are: (1) whether the RCA SATCOM satellite system is

superior, from a technical point of view, to the AT&T COMSTAR system; and (2) whether Alascom and Americom have made a sufficient showing that the cost of using the SATCOM system is less than or equivalent to the cost of using the COMSTAR system.

Common Carrier—3—Title: RCA American Communications, Inc. application for authority to launch the SATCOM F–3 domestic satellite and to relocate SATCOM F–1. Summary: The Commission will consider the application of RCA American Communications, Inc. for authority to launch a third domestic satellite and place it in the prime orbital arc. The issues to be considered are (1) whether the RCA Americom has demonstrated sufficient need for a third in-orbit SATCOM satellite; (2) whether RCA Americom should be authorized to place a second SATCOM satellite in the prime orbital arc; (3) whether the Commission should delay launch authority pending resolution of complaints concerning the design of the satellite and RCA Americom's method of assigning transponders.

Common Carrier—4—Title: Application for consent to transfer control of WUI, Inc., Western Union International, Inc., Airsignal International, Inc., and Airsignal's wholly owned subsidiaries to Xerox Corporation (File Nos. 721–CSG–TC–79 and 722–DSE–TC–79). Summary: Xerox Corporation and WUI, Inc. and its wholly owned subsidiaries seek Commission consent to a proposed merger. The effect of the merger would be to transfer to Xerox control of WUI, Inc. and its wholly owned subsidiaries. WUI, Inc. and its subsidiaries hold various authorizations from the Commission for the provision of domestic and international communications services. Among the issues to be resolved are the question of the applicability of Section 222 to the proposed merger and the effect of the merger on competition.

Assignment and Transfer—1—Title: Letter from Arthur B. Goodkind, counsel for Thomas L. Berkley, requesting a ruling regarding the applicability of the Commission's Multiple Ownership Rules. Summary: Mr. Thomas L. Berkley has a 10% interest and is an officer and director of a licensee of an AM–FM combination in the San Francisco Bay area and also owns and publishes, three times per week, four small newspapers in the same market. He proposes to commence publishing one of these newspapers four times per week at which time he will resign his position as an officer and director of the licensee company and disclaim his voting rights in the company's stock. He requests a ruling as to the applicability of our Multiple Ownership Rules to these circumstances.

Assignment and Transfer—2—Title: Applications for assignment of the licenses of stations WBIR–AM–FM, Knoxville, Tennessee, from Multimedia, Inc. to Stoner Broadcasting System, Inc.; application for assignment of the license of station WVEZ (FM), Louisville, Kentucky, from Stoner Broadcasting System, Inc. to Multimedia, Inc. Summary: The applications are mutually contingent. A petition to deny the WVEZ (FM) assignment application has been filed by Kentucky Technical Institute, licensee of FM station WLRS, Louisville, Kentucky. The petition primarily alleges that the WVEZ (FM) acquisition by Multimedia would violate the Commission's "three station regional concentration of control rule" (section 73.240(a)(2)).

Renewal—1—Title: Educational Broadcasting Corporation's Request for on-site Inspection of Proposed Newark Facilities. Summary: The proposed Order considers Educational Broadcasting Corporation's request that the Commissioners conduct an on-site inspection of its New Jersey Facilities before issuing further orders in this proceeding.

Aural—1—Title: Memorandum Opinion and Order in re application of Hall Broadcasting Co., Inc. (BPH–10,663). Summary: The FCC considers its grant of the above application to change transmitter location and increase antenna height of Station WIYD–FM, Palatka, Florida, in the light of the parties' failure to consummate a companion assignment of license of the station.

Television—1—Title: Application of WSET–TV, Inc. for CP to make major changes in facilities of WSET–TV, Lynchburg, Virginia (BPCT–5001). Summary: WSET proposes to change site and make other changes, resulting in location closer to Roanoke Virginia, and farther from Lynchburg. Questions raised with respect to short-spacing, UHF impact and other matters. Petition to deny and informal objection are also considered.

Television—2—Subject: Application of Wometco Blonder-Tongue Broadcasting Corp. for a construction permit for changes in the facilities of Station WWHT (TV), channel 68, Newark, N.J. (no file number assigned). Summary: Applicant seeks to locate the WWHT (TV) transmitter atop the World Trade Center Building in New York, N.Y. The proposed transmitter location does not comply with Commission mileage separation requirements for television facilities and applicant has, therefore, requested a waiver of these requirements. The issue before the Commission is whether applicant's waiver request is sufficient to justify acceptance of its application for filing.

Broadcast—1—Reregulation and Rules Oversight of Radio and TV Broadcasting. Amendment of §§ 73.30, "Station location and program origination;" 73.31, "Authority to move main studio;" 73.210, "Station location and program origination" and 73.613, "Main studio location." Basics of these four rules are essentially the same. They are rewritten and combined and placed in Subpart H of Part 73—"Rules Applicable to all Proadcast Stations." The Sections are renumbered and retitled: § 73.1120 Station location; § 73.1125 Station main studio location; § 73.1130 Station program origination.

Broadcast—2—Notice of Proposed Rule Making to permit the use of subcarriers in the television aural baseband for the purposes of cuing and coordinating electronic newsgathering crews (Docket 21323). Summary: The FCC is proposing the use of subcarriers in the television aural baseband for the purposes of cuing and coordinating ENG crews. Technical standards for such transmissions are also proposed. This action was initiated by a petition filed by Boston Broadcasters, Inc. A Notice of Inquiry issued earlier in this proceeding requested comments in regard to all possible uses of TV aural subcarriers including television stereophonic sound. The mixed responses received, combined with the electronic industry's continuing study of the matter, prompts us to hold in abeyance consideration of subcarrier uses other than that now proposed.

Broadcast—3—Pre-U.S. release of television programs in Canada, Docket NO. 20649. The Commission will consider: (1) Its jurisdiction, under Section 325(b) of the Communications Act, over the exportation of U.S. network television programs for release by Canadian border stations before they are broadcast within the United States; (2) pending industry proposals that the FCC prohibit program exportation for such "Canadian pre-release" and bar cable carriage of pre-released programs.

Complaints and Compliance—1—Application for review filed by the Let's Help Florida Committee. The complainant, Let's Help Florida (LHF), alleged that WCKT, Miami, Florida, violated the Fairness Doctrine in not allowing reasonable opportunity for the presentation of contrasting viewpoints on Proposition 9, a ballot referendum concerning legalized casino gambling. LHF alleged also that WCKT allowed personal attacks to be made during editorials opposing Proposition 9 and failed to notify LHF and offer them an opportunity to respond, as required by the Commission's personal attack rules. The Broadcast Bureau found that WCKT's programming on the issue had been reasonably balanced and, therefore, WCKT had not violated the Fairness Doctrine in its coverage of the issue. The Staff found that the alleged personal attacks had occurred during news commentaries not during editorials as claimed by LHF. Since news commentaries are exempt from the personal attack rule, the staff found no violation of that rule. LHF appealed the Staff's findings. The Commission must decide whether the Staff's findings should be upheld or overruled.

Complaints and Compliance—2—Title: Application for Review of Reasonable Access Complaint of Harrel Tillman against KYOK, Houston, Texas. Broadcast Bureau denied complaint that Congressional primary candidate was not accorded reasonable access, as required by Sec. 312(a)7 of the Communication Act, as a result of station's alleged failure to sell advertising time to candidate. Candidate alleged that station rejected request to buy time; station denied allegations, and provided evidence of available time during period in question. Staff found no substantial basis to conduct further inquiry to resolve factual dispute between Tillman and station. Commission must determine whether any basis exists to overturn Bureau's prior action.

Complaints and Compliance—3—Title: In re Complaint of Jim Myers *et al*, against ABC, CBS and NBC Television Networks. Summary: The Commission has before it an Application for Review of a Broadcast Bureau ruling which denied a Fairness Doctrine complaint. The complaint concerns NBC's broadcast of "The Story Teller"; and the alleged suppression of news of TV violence victims by ABC, CBS and NBC. In its ruling, the Bureau found that even assuming that "The Story Teller" raised a controversial issue of public importance, it did not have the authority to require NBC to permit the complainants to appear on NBC; and that no action was warranted on the claim of news suppression since no extrinsic evidence had been presented to support the claim. The Commission must decide whether the Application for Review contains sufficient grounds to warrant a reversal of the Bureau's ruling.

Complaints and Compliance—4—Title: Complaint of the Carter-Mondale Committee against the ABC, CBS and NBC Television Networks. Summary: The Commission has before it a complaint of the Carter-Mondale Committee against the ABC, CBS and NBC Television Networks concerning the networks' refusal to sell a half-hour time segment. The Committee alleges that the networks' refusal to sell the time constitutes a violation of the "reasonable access" provision of Section 312(a)(7). All of the networks claim that their decisions are reasonable and that the complaint should be denied. The Commission must decide whether the networks have fulfilled their obligations under Section 312(a)(7).

This meeting may be continued the following workday to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 632–7260.

Issued: November 14, 1979.

[S–2254–79 Filed 11–16–79; 11:09 am]

BILLING CODE 6712–01–M

4

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 2:00 p.m., Tuesday, November 20, 1979.

PLACE: Room 856, 1919 M Street, N.W., Washington, D.C.

STATUS: Closed Commission Meeting following the open meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

Hearing—1—Appeal of ALJ's Order dismissing an application with prejudice in the Memphis, Tennessee, Common Carrier (Domestic Public Land Mobile Radio Services) proceeding (Docket Nos. 20871, 20872 and 20938).

Hearing—2—Court remand for consideration of the pertinence of a translator station proposal to the Commission's previous refusal to authorize a change in the transmitter site specified in the television station construction permit for Channel 13 at Fajardo, Puerto Rico (Docket Nos. 18048–18049).

Hearing—3—Decision in the renewal proceeding involving Camellia City Telecasters, Inc., licensee of UHF station KTXL–TV, Sacramento, Calif. (Docket Nos. 20125 and 20429).

General—1—Senior Executive Service Performance Appraisal and Compensation System.

This meeting may be continued the following workday to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen Peratino. FCC Public Affairs Office, telephone number (202) 632–7260.

Dated: November 14, 1979.

[S–2255–79 Filed 11–16–79; 11:09 am]

BILLING CODE 6712–01–M

5

FEDERAL MARITIME COMMISSION.

TIME AND DATE: November 16, 1979, 10:00 a.m.

PLACE: Room 12126, 1100 L Street, N.W., Washington, D.C. 20573.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proceedings for Failure to include Provisions for Adequate Self-Policing as Required by General Order 7.
2. Financial Exhibits and Schedules Non-Vessel Operating Common Carriers in the Domestic Offshore Trades.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523–5725.

[S–2258–79 Filed 11–16–79; 3:00 pm]

BILLING CODE 6730–01–M

6

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10:00 a.m., Tuesday, November 20, 1979.

PLACE: Room 600, 1730 K Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Coaltrain Corporation, MORG 79–26–P.
2. Scotia Coal Company, BARB 78–306, etc. (Motion to stay proceedings pending disposition of petition for interlocutory review).

It was determined by a unanimous vote of Commissioners that Commission business required that a meeting be held on these items and that no earlier announcement of the meeting was possible.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, 202–653–5632.

Dated: November 15, 1979.

[S–2257–79 Filed 11–16–79; 2:23 pm]

BILLING CODE 6820–12–M

7

NATIONAL RAILROAD PASSENGER CORPORATION.

Board of Directors Meeting

In accordance with Rule 4a. of Appendix A of the Bylaws of the National Railroad Passenger Corporation notice is given that the Board of Directors will meet on November 28, 1979.

A. The meeting will be held on Wednesday, November 28, 1979, in the Seattle Hilton, the Windward Room, 6th and University Streets, Seattle, Washington, beginning at 2:00 p.m.

B. The meeting will be open to the public at 2:45 p.m. beginning with agenda item No. 3, as described below.

C. The agenda items to be discussed at the meeting follow.

Agenda—National Railroad Passenger Corporation; Meeting of the Board of Directors, November 28, 1979

Closed Session

1. Internal personnel matters.
2. Litigation matters.

Open Session

3. Approval of minutes of meeting of October 31, 1979.
4. Board Committee Reports: ad hoc Bylaws Revision.
5. President's Report.
6. New business.
7. Adjournment.

D. Inquiries regarding the information required to be made available pursuant to Appendix A of the Corporation's Bylaws should be directed to the Corporate Secretary at (202) 383–3991.

Dated: November 16, 1979.

Barbara J. Willman,

Assistant Corporate Secretary.

[S–2256–79 Filed 11–16–79; 1:38 pm]

BILLING CODE 0000–00–M

federal register

Tuesday
November 20, 1979

Part II

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

Public Hearing and Public Comment Period on the Mississippi, Montana, and Texas Permanent Regulatory Programs

DEPARTMENT OF THE INTERIOR

Office Surface Mining Reclamation and Enforcement

Public Hearing and Public Comment Period on the Mississippi Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

ACTION: Notice of Hearing and Comment Period for Initial Decision on Permanent Program Submission.

SUMMARY: OSM is announcing procedures for the public comment period and hearing on the substantive adequacy of the proposed Mississippi regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

This notice sets forth the times and locations that the Mississippi program is available for public inspection; additions and/or modifications to the submission made since August 2, 1979; the date when and location where OSM will hold a public hearing on the submission; the comment period during which interested persons may submit written comments and data on the proposed program and public hearing.

DATES: A public hearing to review the substance of the Mississippi program submission will be held at 7:30 p.m. on December 20, 1979, at the address listed below. Written comments, data or other relevant information may be submitted to supplement or in lieu of an oral presentation at the hearing. Comments from members of the public must be received on or before December 26, 1979, to be considered in the Secretary's initial decision on the Mississippi proposed State program.

ADDRESSES: The public hearing will be held at Holiday Inn No. 1, Junction of Interstate 20 and Interstate 59, Meridian, Mississippi. Written comments should be sent to: Mr. David C. Short, Regional Director, Office of Surface Mining, 530 Gay St., SW., Suite 500, Knoxville, Tennessee 37902, or may be hand delivered to the Regional Office.

A listing of scheduled public meetings and copies of all written comments are available for review and copying at the OSM Region II Office and central office of the State Regulatory Authority, Monday through Friday, 8 a.m. to 4 p.m., excluding holidays. Copies of the full text of the proposed program are also available for review at those locations. Office locations are listed below:

Office of the Regional Director, Region II, Office of Surface Mining, 530 Gay Street, SW., Suite 500, Knoxville, TN 37902.
Bureau of Geology and Energy Resources, Department of Natural Resources, 2525 N. West Street, Jackson, MS 39216.

A copy of this notice along with a copy of the *Mississippi* state statutes and regulations regarding the proposed *Mississippi* regulatory program has been placed on file and is available for inspection in the Library of the Office of the **Federal Register**, Room 8301, 1100 L Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Mr. John T. Davis, Assistant Regional Director, Office of Surface Mining Reclamation and Enforcement, 530 Gay Street, SW, Suite 500, Knoxville, TN 37902 Telephone: (615) 637–8060.

SUPPLEMENTARY INFORMATION: On August 2, 1979, the State of Mississippi submitted to OSM a proposed State regulatory program. Pursuant to the provisions of 30 CFR Part 732 (44 FR 15326–15328, March 13, 1979) the Regional Director published notification of receipt of the program submission in the August 10, 1979 **Federal Register** (44 FR 47173–47174) and in newspapers of general circulation within the State. In accordance with that announcement, public comments were solicited and a public meeting held September 18, 1979, on the issue of the program's completeness.

On October 9, 1979, the Regional Director published notice in the **Federal Register** announcing that he had determined the program to be incomplete (44 FR 58000–58001). The notice specified that the program submission lacked complete information in the following areas: (1) Permit review (30 CFR 731.14 (g)(1)); (2) Permit fee assessment (30 CFR 731.14(g)(2)); (3) State organization structure and manpower estimates (30 CFR 731.14(g)(4)(5) and (j)); (4) Citizen participation in inspections (30 CFR 731.14(g)(14), 842.12, 841.14 and 842.15); (5) State staff qualifications (30 CFR 731.14(i)); (6) Budget projections (30 CFR 731.14(1)); (7) Physical resource needs (30 CFR 731.14(m)).

Although Mississippi has now submitted all of the require program elements, the State's proposed regulations are not yet fully authorized as required by (30 CFR 732.12(b)(2); nevertheless, OSM will hold the public hearing and will receive public comments on the program.

Upon completion of the public hearing and review of all comments, the Regional Director will transmit to the Director his recommended decision on the program along with a record composed of the hearing transcript, written presentation, exhibits and copies of all public comments.

Upon receipt of the Regional Director's recommendation, the Director will review all relevant information from the public hearing and comments and shall make his recommendation to the Secretary. The Director's recommendation will specify reasons therefor.

The procedures for the recommendation to the Secretary are explained in §§ 732.11(d) and 732.12 (d) and (e) (44 FR 15326–15327) and the corresponding sections of the preamble (44 FR 14959–14961).

At the public hearing, parties wishing to comment on the proposed program will have opportunity to be listed on the speaker's agenda anytime prior to commencement of the hearing. Sign up for listing may be made either by writing the regional office or in person, on or before the day of the hearing. The hearing will follow legislative procedures and participants will not have the opportunity to question each other or the panel. Witnesses will not be cross examined. The moderator may limit testimony to 10 minutes per person based on the number in attendance.

Public participation in the review of State programs is a vital component in fulfilling the purposes of SMCRA. On September 19, 1979 (44 FR 54444–54445) OSM published Guidelines in the **Federal Register** governing contacts between the Department of the Interior and both State officials and members of the public. It is hoped that issuance of these Guidelines will encourage full cooperation by all affected persons with the procedures being implemented.

Set forth below is a summary of the contents of the proposed Mississippi program:

Section and Title

731.14(a) The Mississippi Surface Coal Mining and Reclamation Act and the Proposed Regulations Promulgated Thereunder
731.14(b) Other State Laws Directly Affecting the Regulation of Surface Coal Mining Operations
731.14(c) Legal Opinion from Mississippi Attorney General
Comparison of Federal and Mississippi Laws
Comparison of Federal and Mississippi Regulations
731.14(d) Regulatory Authority Designation
731.14(e) Organization of the State Regulatory Authority
731.14(f) Agreements Between Agencies with Duties in the State Program
731.14(g) (1) Exploration and Mining Permits
(g)(2) Permit Application Fees
(g)(3) Performance Bonds and Liability Insurance
(g)(4) Inspections and Monitoring

(g)(5) Enforcing the Administrative, Civil and Criminal Sanctions of State Laws and Regulations
(g)(6) Administering and Enforcing the Permanent Program Performance Standards
(g)(7) Assessing and Collecting Civil Penalties
(g)(8) Public Notices and Hearings
(g)(9) Coordinating Issuance of Permits with Other Agencies
(g)(10) Consultation with Other Agencies Regarding Environmental, Historic, Cultural and Archeological Resources
(g)(11) Lands Unsuitable for Surface Mining
(g)(12) Restrictions on Financial Interests
(g)(13) Training, Examining and Certifying Blasters
(g)(14) Public Participation
(g)(15) Administrative and Judicial Review
(g)(16) The Small Operator Assistance Program
731.14(h) Coal Mines and Production in Mississippi
731.14(i) Summary of Staff with Titles, Job Functions, and Job Requirements
731.14(j) Description of Staffing Adequacy
731.14(k) Use of Other Professional and Technical Personnel
731.14(l) Budget Information
731.14(m) Available Physical Resources
731.14(n) Other Programs of the Regulatory Authority

On October 18, 1979, OSM published in the **Federal Register** a proposed amendment deleting the requirement in § 732.12(a) to publish the full text of State statutes and regulations with this notice. The public comment period for the proposed amendment closes on November 21, 1979, and publication of the final amended rule will occur soon thereafter. OSM believes that publication of the complete text of the Mississippi statutes and regulations would severely burden both OSM and the Government Printing Office and may be impossible to accomplish. In addition, the cost would be excessive in comparison to the expected benefits.

Accordingly, OSM has decided not to publish the full text of the Mississippi statute and regulations. Instead, OSM announces that single copies of the Mississippi statute and regulations will be available to all requesters at no charge. Persons interested in obtaining copies should write the Regional Director. OSM believes that this arrangement and the availability of copies for public review of the entire State program, including State statutes and regulations, at the office of the Regional Director and the offices of the State agency will accomplish wide dissemination without necessary expense or confusion to the public.

No Environmental Impact Statement is being prepared in connection with the process leading to the approval or disapproval of the proposed Mississippi program. Under § 702(d) of SMCRA (30 U.S.C. § 1292(d)) approval does not constitute a major action within the meaning of § 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

Dated: November 15, 1979.

David C. Short,

Regional Director.

[FR Doc. 79-35831 Filed 11-19-79; 8:45 am]

BILLING CODE 4310-05-M

Public Hearing and Public Comment Period on the Montana Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

ACTION: Notice of Hearing and Comment Period for Initial Decision on Permanent Program Submission.

SUMMARY: OSM is announcing procedures for the public comment period and hearing on the substantive adequacy of the proposed Montana regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

This notice sets forth the times and locations that the Montana program is available for public inspection; additions and/or modifications to the submission made since August 3, 1979; the date when and location where OSM will hold a public hearing on the submission; the comment period during which interested persons may submit written comments and data on the proposed program and other information relevant to public participation during the comment period and public hearing.

DATES: A public hearing to review the substance of the Montana program submission will be held at 9:00 a.m., on December 20, 1979, at the address listed below. Written comments, data or other relevant information may be submitted to supplement or in lieu of an oral presentation at the hearing. Comments from members of the public must be received on or before December 24, 1979, to be considered in the Secretary's initial decision on the Montana proposed State program.

ADDRESSES: The public hearing will be held in Billings, Montana, at the Northern Hotel located at the corner of Broadway and 1st Avenue. Written comments should be sent to Mr. Donald A. Crane, Regional Director, Office of Surface Mining, Department of the Interior, Brooks Towers, Room 5010, 1020 15th Street, Denver, Colorado 80202, or may be hand delivered to the Regional Office.

A listing of scheduled public meetings and copies of all written comments are available for review and copying at the OSM Region V Office and central office of the State Regulatory Authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p., excluding holidays:

Office of Surface Mining, Reclamation and Enforcement, Department of Interior, Region V, Brooks Towers, Room 5010, 1020 15th Street, Denver, Colorado 80202.
Montana Department of State Lands, 1625 11th Avenue, Capitol Station, Helena, Montana 59601.

Copies of the full text of the proposed program are available for inspection during regular business hours at the OSM Region V Office and the central office of the State Regulatory Authority listed below, and field offices of the State Regulatory Authority listed below:

Montana Department of State Lands, 1625 11th Avenue, Capitol Station, Helena, Montana 59601.
Department of State Lands Field Offices, 1245 North 29th Street, Billings, Montana 59101.

A copy of this notice along with a copy of the Montana State statutes and regulations regarding the proposed Montana regulatory program has been placed on file and is available for inspection in the Library of the Office of the Federal Register, Room 8301, 1100 L Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Sylvia Sullivan, Public Information Officer, Office of Surface Mining Reclamation and Enforcement, Department of Interior, Region V, Brooks Towers, Room 5010, 1020 15th Street, Denver, Colorado 80202, Telephone: (303) 837-4731.

SUPPLEMENTARY INFORMATION: On August 3, 1979, the state of Montana submitted to OSM a proposed State regulatory program. Pursuant to the provisions of 30 CFR Part 732 (44 FR 15326-15328, March 13, 1979) the Regional Director published notification of receipt of the program submission in the August 13, 1979, **Federal Register** (44 FR 47414-47415) and in newspapers of general circulation within the State. In accordance with that announcement, public comments were solicited and a public meeting held on September 12, 1979, on the issue of the program's completeness.

On October 5, 1979, the Regional Director published notice in the **Federal Register** announcing that he had determined the program to be complete (44 FR 57851). The notice specified that the program submission was complete in accordance with the Federal Act and regulations, as required by 30 CFR 731.14(c).

In accordance with § 732.11(d) of the permanent regulatory program regulations and the Regional Director's notice, the State could elect to modify any element of the complete submission and established November 15, 1979, as the final date for submission of a revised program. Modifications to the permanent program of Montana are listed below, along with the dates of each modification submission. On November 13, 1979, the Department of State Lands submitted a revised table of contents, minor revisions to the text, additional documents to be placed in Appendix D (forms used by the Department of State Lands) and an errata sheet for the section-by-section comparison (Appendix C, C–1, C–2).

As a complete submission the proposed program may now be considered for permanent regulatory program approval. Subsequent to the public hearing and review of all comments the Regional Director will transmit to the Director his recommended decision along with a record composed of the hearing transcript, written presentations, exhibits and copies of all public comments.

Upon receipt of the Regional Director's recommendation, the Director will consider all relevant information in the record and will recommend to the Secretary that the program be approved or disapproved, in whole or in part, or conditionally approved. The recommendation will specify the reasons for the decision. The procedures for the recommended decisions of the Regional Director and the Director to the Secretary are established in 30 CFR 732.12(d) and (e) (44 FR 15326–15327). For further details, refer to §§ 732.12 and 732.13 of the permanent regulatory program (44 FR 15326–15327) and corresponding sections of the preamble (44 FR 14959–14961).

At the public hearing parties wishing to comment on the proposed program will have opportunity to be listed on the speaker's agenda anytime prior to commencement of the hearing. Sign up for listing may be made either by writing the regional offices or in person, on or before the day of the hearing. In addition, the Regional director has prescribed the following hearing format and rules of procedure in accordance with 30 CFR 732.12(b)(1) (44 FR 15326).

1. The hearing shall be informal and follow legislative procedures.

2. Each participant will be allowed 15 minutes.

3. Participants will be called in the order requests for testifying are received.

Public participation in the review of State programs is a vital component in fulfilling the purposes of SMCRA. On September 19, 1979, OSM published Guidelines in the **Federal Register** (44 FR 54444–54445) governing contacts between the Department of the Interior and both State officials and members of the public. It is hoped that issuance of these Guidelines will encourage full cooperation by all affected persons with the procedures being implemented.

Set forth below is a summary of the contents of the proposed Montana program. In the following summary the first number is the Montana number as shown in their table of contents and is followed by the appropriate number from 30 CFR 731.14.

1. *731.14(a) State Laws*

Montana has submitted three state laws which regulate coal, exploration, surface coal mining and reclamation operations. Included are three Bills which the Legislature passed to amend their Strip and Underground Mine Reclamation Act. House Bill 732 and House Bill 406 became effective July 1, 1979. Senate Bill 515 becomes effective upon approval of Montana's permanent regulatory program by the Secretary of the Interior. Included in another section of the program submission is a section-by-section comparison of these laws with the Federal Statute Pub. L. 95–87, explaining any differences and their legal effect.

731.14(a) Regulations

Thirty-one rules promulgated to implement and enforce the state laws and amendments referred to above were adopted by the Montana Department of State Lands on July 16, 1979. These rules, with the exception of Rules XVI and XXI, will become effective at the same time as Senate Bill 515.

In Appendices C–1 and C–2 there is a section-by-section comparison of these Rules with the Federal Regulations as published in 30 CFR Chapter VII. This section gives cross references to all other statutes and regulations which bear on the subject and explains differences between Montana's Rules and the Federal Regulations.

2. *731.14(b) Other State Laws*

This sections lists all the laws (submitted in Appendix B of the program submission) which affect in one way or another surface coal mining, public participation, and reclamation. This submission includes 18 subjects and ranges in content from parts of Montana constitution to accountability for conduct of a corporation, to formation of the Department of State Lands to the Montana Water Quality Act.

3. *731.14(c) Legal Opinion Stating That the State Has Legal Authority To Carry Out This Program*

This consists of a copy of the Department of State Lands' Chief Legal Officer's opinion indicating that Montana has or will have the authority to implement, administer and enforce a permanent coal program in compliance with Pub. L. 95–87 and 30 CFR Chapter VII.

4. *731.14(d) Designation of Regulatory Authority*

Included is a copy of a letter dated February 23, 1978, from Thomas L. Judge, Governor of Montana, to the Director of OSM, designating the Montana Department of State Lands as the state regulatory authority for Montana and authorizing the Department to receive and administer grants under 30 CFR Part 725 and 30 CFR Part 740.

5. *731.14(e) Organizational Chart*

This section gives an organizational chart and a listing of departmental positions involved with Montana's coal program and their duties. The narrative supporting these tables and charts details lines of authority and duties and for both the Department of State Lands and for the role played by the Department of Health and Environmental Sciences (DHES).

6. *731.14(f) Supporting Agreements Between Agencies*

This section includes letters of agreement between the Commissioner of the Montana Department of State Lands and the Deputy Director of the Montana Department of Health and Environmental Sciences. These agreements establish the relationship between the two agencies in administering Montana's coal program.

7. (a through p) 731.14(g) 1–16

(a)–(1) Receipt, Review and Discussion on Permit Application

This section sets out the permit systems that Montana proposes to use in coal exploration and coal mining. These systems include statutory authority, environmental assessments, reports, fees and processes carrying out these activities on Federal lands under the cooperative agreement Montana has with the Department of the Interior.

(b)–(2) Assessing Fees for Permit Applications

This section sets out statutory authority for assessing fees, the various

fees involved and the types of operations where no fees are required.

(c)–(3) Bonding Procedures

Statutory authority including reference to their permanent rules are given for performance bonds including various methods of bonding and the periods for which the bond will be held are described.

(d)–(4) Inspection and Monitoring Procedures

Reference is made to various statutes and rules for further description of procedures. This section outlines staff time, number of inspections per quarter, annually, and details on staffing procedures. The procedure to be followed in a technical review of a permit application is presented in last section.

(e)–(5) Enforcement Procedures

Besides references to both State and Federal Statutes and Regulations the narrative describes the procedure for handling cessation orders, the use of hearing examiners, law suits, and the filing of criminal actions.

(f)–(6) Administration and Enforcement of Program Performance Standards

Several of the submitted sections are referenced as Montana does not have a specific statute to cover this aspect of the program. The four sections referenced give in some detail the elements of program performance enforcement.

(g)–(7) Assessing and Collecting Civil Penalties

This section presents not only the system used in collecting and assessing penalties, but also the areas where the state differs from the Federal requirements, for example, "* * * unlike the Federal system, the state must assess a penalty for every violation."

(h)–(8) Public Notice and Public Hearings

Montana's Act and Rules as amended contain numerous provisions for issuing public notices and holding public hearings. Thirty-eight such references are given with the specific subject listed next to the reference.

(i)–(9) Coordination of Permits with Other Agencies

This section lays out the relationship between those agencies that the Department of State Lands must deal with in issuing permits.

(j)–(10) Consultation With Fish, Wildlife, Historic, Cultural and Archaeological Agencies

Besides references to their statutes and rules, this section states the philosophy for consultation and coordination between agencies with responsibilities in specific areas of concern.

(k)–(11) Lands Unsuitable

This section along with certain parts of Senate Bill 515 and Rule XXIII spells out Montana's efforts in developing a data base and inventory system, and the development of a petition process for designating lands as unsuitable.

(l)–(12) Restrictions Against Financial Interests

Montana's Rule XXVIII describes their procedures for monitoring, reviewing and enforcing restrictions against direct and indirect financial interests of state employees.

(m)–(13) Training and Certification of Blasters

Montana's Rule VI (1)(a) states: Each person who conducts strip or underground mining operations shall comply with all applicable state and Federal laws in the use of explosives.

(n)–(14) Providing for Public Participation

This section gives the details for involving the public in a variety of program development areas including rule making, amendments to or repeal of rules, and the public hearing process. This section also explains the provision for citizen participation in the enforcement of the Act and the Rules. Rule XVIV spells out how a citizen may be involved in the inspection process.

(o)–(15) Administrative and Judicial Review

The section-by-section comparison of Pub. L. 95–87 and 30 CFR Chapter VII to Montana's Coal Reclamation Act and Rules gives comparable hearing and judicial review requirements. Administrative review will take place in accordance with the Montana Administrative Procedure Act which provides for contested cases.

(p)–(16) Small Operators Assistance Program

The Department of State Lands will administer the Small Operator Assistance Program in Montana. This system describes in detail the approach Montana is taking to certify labs and to provide assistance to small operators.

8. *731.14(h) Coal Mining and Prospecting Statistics*

Statistics on coal tonnage produced, number of mines, mine location, acreage for prospecting and mining permits are spelled out in detail. This information in addition to reclamation and proposed future coal production establishes a basis for comparing actual to proposed figures on staffing and budget in other sections.

9. *731.14(i) Existing and Proposed Staffing Levels*

This section sets out numbers and general functions for both present and proposed staffing patterns.

10. *731.14(j) Staffing Adequacy*

There are at present 15 Department of State Lands (DSL) employees in the Reclamation Division. Ten of these are devoted full time to coal or uranium.

One hundred thirty-one (131) coal mine inspections were made in 1978–1979. This frequency of inspections exceeds that required in Section 502 of Pub. L. 95–87. In 1978, the Department added 4 additional staff members to help develop their permanent program.

When proposed new staff members are on board there will be 17 members of the Reclamation Division who will be spending a major portion of their time on the coal program.

11. *731.14(k) Personnel Available From Other Agencies*

Montana plans on using staff members of the Department of Health and Environmental Sciences only. They depend on this agency for analyzing water quality. Members of the Air Quality Bureau and the Water Quality Bureau are used to advise DSL staff on technical matters.

12. *731.14(l) Budget*

This section gives a budgetary summary of Montana's coal program for each of the next two fiscal years. State funding for DSL's Reclamation Division comes from two sources: the State general fund and the DSL's "Reclamation Account." The Reclamation Account is composed of permit and violation fees paid during the two previous years. In FY 79, 95 percent of Reclamation Division funding came from the general fund and 5 percent from the reclamation fund.

13. *731.14(m) Physical Resources*

This section describes floor space for offices, number of vehicles, various equipment for regulatory purposes and a note on additional equipment requirements.

14. *731.14(n) Other Programs Administered by DSL*

The DSL has two primary duties; one is the management of State-owned lands and the other is the administration of State and Federal mined land reclamation statutes.

The DSL's Land Administration Division oversees leasing, sale, exchange, improvements, and overall management of State-owned lands. The centralized Services Division is charged with providing the necessary administrative services for the Department. The third division, the Reclamation Division, administers Montana's mined land reclamation statutes including the Montana Strip and Underground Mine Reclamation Act, the Montana Strip and Underground Mine Siting Act, the Montana Opencut Mining Act, and the Montana Hard Rock Mining Act.

On October, 18, 1979, OSM published in the **Federal Register** a proposed amendment deleting the requirement in § 732.12(a) to publish the full text of State statutes and reguations with this notice. The public comment period for the proposed amendment closes on November 21, 1979, and publication of the final amended rule will occur soon thereafter. OSM believes that publication of the complete text of the Montana statutes and regulations would severely burden both OSM and the Government Printing Office and may be impossible to accomplish. In addition, the cost would be excessive in comparison to the expected benefits.

Accordingly, OSM has decided not to publish the full text of the Montana statute and regulations. Instead, OSM announces that single copies of the Montana statute and regulations will be available to all requesters at no charge. Persons interested in obtaining copies should write the Regional Director. OSM believes that this arrangement and the availability of copies for public review of the entire State program, including State statutes and regulations, at the office of the Regional Director and the offices of the State agency will accomplish wide dissemination without necessary expense or confusion to the public.

No Environmental Impact Statement is being prepared in connection with the process leading to the approval or disapproval of the proposed Montana program. Under Section 702(d) of SMCRA (30 U.S.C. Section 1292(d)) approval does not constitute a major action within the meaning of Section 102(2)(c) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

Dated: November 14, 1979.

John E. Hardaway

Acting Regional Director.

[FR Doc. 79-35832 Filed 11-19-79; 8:45 am]

BILLING CODE 4310-05-M

Public Hearing and Public Comment Period on the Texas Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

ACTION: Notice of Hearing and Comment Period for Decision on Permanent Program Submission.

SUMMARY: OSM is announcing procedures for the public comment period and hearing on the substance of the proposed Texas regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

This notice sets forth the times and locations that the Texas program is available for public inspection; additions and/or modifications to the submission made since July 20, 1979; the date when and the location where OSM will hold a public hearing on the submission; the comment period during which interested persons may submit written comments and data on the proposed program and other information relevant to public participation during the comment period and public hearing.

DATES: A public hearing to review the substance of the Texas program submission will be held from 7:00 p.m. to 9:00 p.m. on December 19, 1979, and from 9:00 a.m. to 12:00 p.m. on December 20, 1979, at the address listed below. Written comments, data or other relevant information may be submitted as a supplement to, or in lieu of, an oral presentation at the hearing. Comments from the public must be received on or before 5:00 p.m., December 20, 1979, to be considered in the Secretary's decision on the proposed Texas regulatory program.

ADDRESSES: The public hearing will be held at the Austin Marriott Hotel, 6121 I–35 North at U.S. 290, Austin, Texas 78752. Written comments should be sent to: Mr. Raymond L. Lowrie, Regional Director, Office of Surface Mining, Scarritt Building, 818 Grand Avenue, Kansas City, Mo. 64106, or may be hand-delivered to the Regional Office.

A listing of scheduled public meetings and copies of all written comments are available for review and copying at the OSM Region IV Office and the central office of the Texas Railroad Commission listed below, Monday through Friday, 8 a.m., to 4 p.m., excluding holidays:

Office of Surface Mining, Reclamation and Enforcement, Region IV, 5th Floor, Scarritt Building, 818 Grand Avenue, Kansas City, Mo. 64106.

Texas Railroad Commission, Surface Mining and Reclamation Division, 1124, S. Inter-Regional Highway, Austin, Tex. 78704.

Copies of the full text of the proposed program are available for inspection during regular business hours at the OSM Region IV Office and the central office of the Texas Railroad Commission listed above, and the OSM Headquarters Office, and field offices of the Texas Railroad Commission listed below:

U.S. Department of the Interior, Office of Surface Mining, Interior South Bldg., Washington, D.C. 20240.

Texas Railroad Commission, Surface Mining and Reclamation Division, Field Office, Woodgate Office Park, Suite 125, 1121 East SW. Loop 323, Tyler, Tex. 75703.

Texas Railroad Commission, Surface Mining and Reclamation Division, Field Office, Shank Office Bldg., 1419 3rd Street, Floresville, Tex. 78114.

A copy of this notice along with a copy of the Texas state statutes and regulations regarding the proposed Texas regulatory program has been placed on file and is available for inspection in the Library of the Office of the Federal Register, Room 8301, 1100 L Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Rieke, Assistant Regional Director, Office of Surface Mining, Reclamation and Enforcement, Scarritt Bldg., 818 Grand Avenue, Kansas City, Mo. 64106, Telephone: (816) 374–3920.

SUPPLEMENTARY INFORMATION: On July 20, 1979, the State of Texas submitted to OSM a proposed State regulatory program. Pursuant to the provisions of 30 CFR Part 732 (44 FR 15326–15328, March 13, 1979), the Regional Director published notification of receipt of the program submission in the July 27, 1979 **Federal Register** (44 FR 44281–44283) and in newspapers of general circulation within the State. In accordance with that announcement public comments were solicited and a public meeting held on September 5, 1979, on the issue of the program's completeness.

On September 17, 1979, the Regional Director published notice announcing that he had determined the program to be incomplete (**Federal Register** 44 FR 53813). The notice specified that the program submission was missing a section-by-section comparison of Texas regulations with the Federal regulations, as required by 30 CFR 731.14(c).

The State has added a section-by-section comparison of Texas regulations with Federal regulations noting differences between them. The State has

also made a large number of modifications, both substantive and non-substantive, to the July 20, 1979 submission. In light of the large number of changes, Texas has elected to submit an entirely new document in the form of an amended State program submission, received by OSM on November 13, 1979. This amended program is complete and it is this submission that OSM will be considering for permanent regulatory program approval.

Subsequent to the public hearing and review of all comments the Regional Director will transmit to the Director his recommended decision along with a record composed of the hearing transcript, written presentations, exhibits and copies of all public comments.

Upon receipt of the Regional Director's recommendation, the Director will consider all relevant information in the record and will recommend to the Secretary that the program be approved or disapproved, in whole or in part, or conditionally approved. The recommendation will specify the reasons for the decision. The procedures for the recommended decisions of the Regional Director and the Director to the Secretary are established in 30 CFR 732.12 (d) and (e) (44 FR 15326–15327). For further details refer to §§ 732.12 and 732.13 of the permanent regulatory program (44 FR 15326–15327) and corresponding sections of the preamble (44 FR 14959–14961).

At the public hearing, parties wishing to comment on the proposed program will have the opportunity to be listed on the agenda any time prior to commencement of the hearing. Sign up for listing may be made either by writing the regional office or in person, on or before the day of the hearing. In addition, the Regional Director has prescribed the following hearing format and rules of procedure in accordance with 30 CFR 732.12(b)(1) (44 FR 15326).

Individual testimony at the hearing will be limited to 15 minutes. The hearing will be transcribed. Filing of a written statement at the time of giving oral testimony would be helpful and would facilitate the job of the court reporter.

The public hearing will continue until all persons scheduled to speak have been heard. Persons in the audience who have not been scheduled to speak and wish to do so will be heard following the scheduled speakers.

Public participation in the review of State programs is a vital component in fulfilling the purposes of SMCRA. On September 19, 1979 (44 FR 54444–54445) OSM published Guidelines in the Federal Register governing contacts between the Department of the Interior and both State officials and members of the public. It is hoped that issuance of these Guidelines will encourage full cooperation by all affected persons with the procedures being implemented.

Set forth below is a summary of the contents of the proposed Texas Program:

1. The Texas Surface Coal Mining and Reclamation Act.

2. Surface coal mining regulations.

3. Other State laws directly affecting the regulation of surface coal mining operations, i.e., the Administrative Procedure and Texas Register Act, the State Water Administration and related regulations, and the Texas Clean Air Act and related regulations.

4. A legal opinion of the Chief Legal Officer of the Texas Railroad Commission stating that the Commission has the necessary authority to administer a permanent regulatory program in accordance with SMCRA and all regulations promulgated thereunder.

5. A section-by-section comparison of the State's laws and regulations with SMCRA and 30 CFR Chapter VII.

6. A letter from Governor Clements designating the Texas Railroad Commission as the regulatory authority for administering SMCRA.

7. A description of the existing and proposed structural organization of the Railroad Commission and the Division of Surface Mining and Reclamation.

8. A letter from the Commissioner of the General Land Office transferring the responsibility for regulating surface coal mining operations on public lands from the GLO to the Commission.

9. A Memorandum of Understanding between the Commission and the Texas Department of Water Resources regarding the coordination of water quality related regulation of surface coal mining and reclamation activities.

10. A description of the proposed system for:

(a) Receiving, reviewing disapproving or approving and issuing permits for exploration and mining operations;

(b) Assessing fees for permit applications, including a fee schedule;

(c) Implementing, administering and enforcing a system of performance bonds and public liability insurance;

(d) Inspecting and monitoring coal exploration and mining and reclamation operations, and providing opportunity for public participation in the inspection process;

(e) Envorcing the administrative, civil and criminal provisions of the State Act and regulations, including citizen suit provisions;

(f) Administering and enforcing the permanent program performance standards of the State Act and regulations;

(g) Assessing and collecting civil penalties;

(h) Issuing public notices and holding public hearings;

(i) Coordinating issuance of permits with other State, Federal and local agencies;

(j) Consulting with other appropriate State and Federal agencies in the implementation of the program;

(k) Designating lands unsuitable for surface coal mining operations, including a description of a planning process for identifying lands unsuitable, a description of the Texas Natural Resources information system, and a process to allow the public to petition the Commission to have lands designated as unsuitable for mining;

(l) Monitoring, reviewing and enforcing restricitions against financial interests of State employees in coal mining operations;

(m) Training, examining and certifying blasters;

(n) Providing for public participation in the promulgation of regulations, in the development of the State program under SMGRA, and in the permitting process;

(o) Providing administrative and judicial review of actions taken by regulatory authority, including permit decisions and enforcement actions;

(p) Providing a Small Operator Assistance Program.

11. A listing of statistical information pertaining to the existing program as well as information pertinent to the proposed regulatory program, including:

(a) Coal production figures for each of the last three years;

(b) The number of coal producing mines for each of the last three years;

(c) Acreage approved or permitted for exploration or mining for each of the last three years;

(d) A map showing the geologic distribution of coal in Texas;

(e) The number of applications for permits, revisions, renewals, exploration and mining operations received by the Texas Railroad Commission for each of the last three years;

(f) The frequency of State inspections for each of the last three years;

(g) The number of coal exploration operations and the number of surface and underground operations under permit at the time of program submission;

(h) Projections of annual production and geographic distribution of both exploration and mining operations for the next five years.

12. A summary of both the existing and proposed staff of the Division of Surface Mining and Reclamation showing job functions, titles, and required job experience and training.

13. A description of how the proposed staffing will be adequate to carry out the functions for the projected workload.

14. A description of projected use of professional and technical personnel available from other State and Federal agencies.

15. A description of the actual budget for the prior and current fiscal years as well as the projected annual budget for each fo the next two years.

16. A description of the existing and proposed physical resources to be used in implementing the permanent program.

17. A brief description of other programs administered by agencies within the Texas Railroad Commission including the Oil and Gas Division, Gas Utilities Division, Transportation Division and Liquid Petroleum Gas program.

On October 18, 1979, OSM published in the **Federal Register** a proposed amendment deleting the requirement in § 732.12(a) to publish the full text of State statutes and regulations with this notice. The public comment period for the proposed amendment closes on November 21, 1979, and publication of the final amended rule will occur soon thereafter. OSM believes that publication of the complete text of the Texas statute and regulations would severely burden both OSM and the Government Printing Office and may be impossible to accomplish. In addition, the cost would be excessive in comparison to the expected benefits.

Accordingly, OSM has decided not to publish the full text of the Texas statute and regulations. Instead, OSM announces that single copies of the Texas statute and regulations will be available to all requesters at no charge. Persons interested in obtaining copies should write the Regional Director. OSM believes that this arrangement and the availability of copies for public review of the entire State program, including State statutes and regulations, at the office of the Regional Director and the offices of the State agency will accomplish wide dissemination without unnecessary expense or confusion to the public.

No environmental Impact Statement is being prepared in connection with the process leading to the approval or disapproval of the proposed Texas program. Under Section 702(d) of SMCRA (30 U.S.C. Section 1292(d)) approval does not constitute a major action within the meaning of Section 102(2)(c) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

Dated: November 14, 1979.

Raymond L. Lowrie,

Regional Director.

[FR Doc. 79-35833 Filed 11-19-79; 8:45 am]

BILLING CODE 4310-05-M

federal register

Tuesday
November 20, 1979

Part III

Office of Management and Budget

Budget Deferrals

OFFICE OF MANAGEMENT AND BUDGET

Budget Deferrals

To The Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report six new deferrals totalling $511.1 million and two revisions to previously transmitted deferrals increasing the amount deferred by $14.9 million. These items affect programs in the Departments of Commerce, Justice, State and Transportation; the International Communication Agency; the Railroad Retirement Board; and the President's Commission on Pension Policy.

The details of the deferrals are contained in the attached reports.

Jimmy Carter

THE WHITE HOUSE,
November 15, 1979.

BILLING CODE 3110-01-M

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

Deferral No.	Item	Budget Authority
	Department of Commerce:	
	National Oceanic and Atmospheric Administration	
D80-6A	Coastal Zone Management	20,000
	Department of Justice:	
	Bureau of Prisons	
D80-17A	Buildings and facilities	37,741
	Department of State:	
	International Organizations and Conferences	
D80-32	Contributions for international peacekeeping activities	10,000
	Department of Transportation:	
	Federal Highway Administration	
D80-33	Federal-aid highways	495,789
	Other Independent Agencies:	
	International Communication Agency	
D80-34	Salaries and expenses	2,000
D80-35	Special foreign currency program	1,600
	Railroad Retirement Board	
D80-36	Regional rail protective account	1,000
	President's Commission on Pension Policy:	
D80-37	Salaries and expenses	700
	Total, deferrals	568,830

* *

SUMMARY OF SPECIAL MESSAGES
FOR FY 1980
(in thousands of dollars)

	Rescissions	Deferrals
Second special message:		
New items	---	511,089
Change to amounts previously submitted	---	14,888
Effect of second special message	---	525,977
Previous special messages	114	1,003,176
Total amount proposed in special messages	114	1,529,153 1/

1/ This amount represents budget authority except for $2,735 thousand in a general revenue sharing deferral of outlays only (D80-23).

D80-6A

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344.

This report revises Deferral No. D80-6 transmitted to the Congress on October 1, 1979, and printed as House Document No. 96-198.

The deferred amount of $20,000,000 applies to the National Oceanic and Atmospheric Administration's Coastal Zone Management account, and specifically to the energy impact formula grant program. The original deferral referenced only balances carried forward from 1979 and prior years. This report revises the earlier deferral action to clarify that it applies to 1979 and prior year appropriations and to appropriations realized under the Department of Commerce Appropriation Act, 1980 (P.L. 96-68.)

Deferral No: D80-6A

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Commerce	New budget authority (P.L. 96-68): $ 64,675,000*
Bureau: National Oceanic and Atmospheric Administration	Other budgetary resources: 28,000,000
Appropriation title & symbol: Coastal Zone Management 13x1451	Total budgetary resources: 92,675,000*
	Amount to be deferred: Part of year: $ ____
	Entire year: 20,000,000
OMB identification code: 13-1451-0-1-302	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [X] Yes [ ] No	[ ] Other ____
Type of account or fund: [ ] Annual; [ ] Multiple-year ____ (expiration date); [X] No-year	Type of budget authority: [X] Appropriation; [ ] Contract authority; [ ] Other ____

Justification: *This appropriation provides for administration, management, beneficial use, protection, and development of the land and water resources of the Nation's coastal zone, by providing grants to States for the planning and management of their coastal areas. The rate of applications for these funds from the States is significantly lower than previously anticipated. Of the funds available for energy impact formula grants, it is estimated that $20,000,000 will not be required to support the planned program in FY 1980. Therefore, these funds are deferred in accordance with the Antideficiency Act (31 U.S.C. 665).

Estimated Effect: This deferral has no effect on the planned program for FY 1980, since these funds would not be used if made available.

Outlay Effect: This deferral will not have any effect on planned outlays.

*Changed from previous report

D80-17A

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344.

This report revises Deferral No. D80-17 transmitted to the Congress on October 1, 1979, and printed as House Document No. 96-198.

The amount deferred for the Federal Prison System's Buildings and facilities account is $37,741,400, an increase of $14,888,100 over the amount previously deferred. This increase results from changes in obligational plans for several prison facilities. An additional $13,460,000 is deferred for the Federal Correctional Institution (FCI) at Phoenix, Arizona pending selection of a site. Another $1,199,000 is deferred for the Camarillo, California FCI, pending a decision of whether to proceed with the project since construction bids were well in excess of planned expenditures. The remaining $229,100 results from changes in obligation patterns at several institutions.

Deferral No: D80-17A

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Justice	New budget authority (P.L. 96-68): $ 5,960,000*
Bureau: Federal Prison System	Other budgetary resources: 73,532,800*
Appropriation title & symbol: Buildings and Facilities[1/] 15X1003	Total budgetary resources: 79,492,800*
	Amount to be deferred: Part of year: $ 6,200,000
	Entire year: 31,541,400*
OMB identification code: 15-1003-0-1-753	Legal authority (in addition to sec. 1013): [X] Antideficiency Act ($31,541,400*)
Grant program: [ ] Yes [X] No	[ ] Other _____
Type of account or fund: [ ] Annual; [ ] Multiple-year _____ (expiration date); [X] No-year	Type of budget authority: [X] Appropriation; [ ] Contract authority; [ ] Other _____

Justification: *This appropriation finances planning, acquisition of sites, and construction of new penal and correctional facilities as well as construction, remodeling, and equipping of necessary buildings and facilities at existing penal and correctional institutions. Projects are undertaken to reduce overcrowding, close old and antiquated penitentiaries, and provide a safe and humane environment for staff and inmates. These funds were appropriated in the Departments of State, Justice, and Commerce, the Judiciary and Related Agencies Appropriation Act of 1980 and previous years. Due to the time required for planning, site acquisition, design efforts, and selection of contractors, it is not possible to complete the construction, renovation, and rehabilitation associated with all of these projects during FY 1980. The deferral of funds for the entire year, totalling $31,541,400, is consistent with congressional intent to provide no-year funding for the total cost of these projects and is taken under provisions of the Antideficiency Act (31 U.S.C. 665).

This deferral also includes $6.2 million for the Detroit Metropolitan Correctional Center (MCC). These funds are deferred pending an OMB decision whether or not to build the facility.

Estimated Effect: The amount deferred for the entire year could not be economically used, if made available, in fiscal year 1980, because of the planned and phased procurement, construction and installation cycle. The effect of the part-of-year deferral is to preserve these funds for use until a final decision is made concerning whether or not to build the Detroit MCC.

Outlay Effect:* This deferral action will shift an estimated $2,731,000 in outlays from FY 1980 to FY 1981.

1/ This account was the subject of a deferral during FY 1979.

* Changed from previous report.

Deferral No: D80-32

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of State	New budget authority (P.L. 96-68) $67,000,000 Other budgetary resources ____ Total budgetary resources 67,000,000
Bureau International Organizations and Conferences	
Appropriation title & symbol Contributions for International Peacekeeping Activities 1901124	Amount to be deferred: Part of year $10,000,000 Entire year ____
OMB identification code: 19-1124-0-1-153	Legal authority (in addition to sec. 1013): [X] Antideficiency Act [ ] Other ____
Grant program [ ] Yes [X] No	
Type of account or fund: [X] Annual [ ] Multiple-year ____ (expiration date) [ ] No-year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other ____

Justification: Three United Nations Middle East peacekeeping operations are provided for in this account -- the United Nations Disengagement Observer Force in the Golan Heights (UNDOF), the United Nations Interim Force in Lebanon (UNIFIL) and the United Nations Emergency Force in the Sinai (UNEF).

In July 1979, the United Nations failed to extend the mandate of UNEF. As a result, the forces associated with UNEF were either rotated to other UN peacekeeping operations in the Middle East or returned to their country of origin. The full amount provided in the Department of State Appropriation Act, 1980 (P.L. 96-68) for UNEF ($20,000,000), therefore will not be required. However, some of the funds will be needed to pay the U.S. share of UNEF close out costs and to pay our increased assessed share of UNIFIL and UNDOF costs which has risen from 29.4% in 1979 to an estimated 31.5% for 1980.

The present estimate is that approximately $10 million will not be required. However, the U.S. will not receive a final assessment from the UN for UNEF close out costs until later this year. The $10 million is deferred until this assessment is completed. Once the actual U.S. requirement is known, a rescission will be proposed for the balance of the funds.

This deferral action is taken in accordance with the Antideficiency Act (31 U.S.C. 665).

Estimated Effect: There are no programmatic or budgetary effects resulting from this deferral.

Outlay Effect: This deferral will not have any effect on outlays, since the funds would not be obligated if made available.

Deferral No: D80-33

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Transportation	New budget authority (P.L. 95-599): $ 8,599,540,000
Bureau: Federal Highway Administration	Other budgetary resources: 571,249,397
Appropriation title & symbol: Federal-Aid Highways (Trust Fund) 20X8102	Total budgetary resources: 9,170,789,397
	Amount to be deferred: Part of year: $ 495,789,397
	Entire year: -0-
OMB identification code: 20-8102-0-7-401	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act
Grant program: ☒ Yes ☐ No	☒ Other P.L. 95-599
Type of account or fund: ☐ Annual (Sept. 30, 1980) ☒ Multiple-year (Sept. 30, 1981) (expiration date) ☐ No-year (Sept. 30, 1982, Sept. 30, 1983)	Type of budget authority: ☐ Appropriation ☒ Contract authority ☐ Other

Justification: Section 115 of the Surface Transportation Assistance Act of 1978 (23 U.S.C. 118(b)) mandates that any Interstate System funds which remain unused by a State two years after being made available must be withdrawn from that State's entitlement and be made part of a discretionary fund. Money from this fund is then made available to any other State which (1) has used all of its regular share of Interstate System funds, and (2) is ready to proceed with additional Interstate projects.

23 U.S.C. section 104 (B)(5)(a) prohibits the apportionment of the States' regular shares of Interstate System funds until the biennial "Estimate of the Cost of Completing the Interstate System" report is approved by a concurrent resolution of the Congress. The report is presently awaiting Congressional action, and a number of States have no Interstate construction money available. This deferral action is intended to prevent the use of the discretionary fund in lieu of, and prior to, the use of the regular 1980 apportioned shares. Use of the discretionary fund before the use of a States' regular share of funds is contrary to the intent of Congress in enacting 23 U.S.C. 118(b).

This deferral affects Interstate discretionary funds only, which include unobligated, unallocated balances carried forward from FY 1979, and Interstate construction funds withdrawn from States' entitlements on September 30, 1979.

Estimated Effect: This deferral action will be in effect only until the regular 1980 distribution of funds to the States can be made. Total obligations for FY 1980 should not be affected.

Outlay Effect: This deferral action will not have any effect on outlays.

Deferral No: D80-34

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency International Communication Agency	New budget authority (P.L. 96-68) $396,010,000
Bureau	Other budgetary resources 7,470,000
Appropriation title & symbol Salaries and Expenses - 67X0201 6700201 1/	Total budgetary resources 403,480,000
	Amount to be deferred: Part of year $ ____ Entire year 2,000,000
OMB identification code: 67-0201-0-1-154	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program [ ] Yes [X] No	[ ] Other ____
Type of account or fund: [X] Annual ($396,355,400) 1/	Type of budget authority: [X] Appropriation
[ ] Multiple-year ____ (expiration date)	[ ] Contract authority
[X] No-year ($7,124,600)	[ ] Other ____

Justification: The United States International Communication Agency (ICA) is authorized by the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431 et seq.), the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2451 et seq.), Executive Order No. 11034 of June 25, 1962, as amended, and Reorganization Plan No. 2 of 1977, to carry out international communication, cultural, and educational exchange programs.

The International Communications Agency Authorization Act, Fiscal Years 1980-1981 (P.L. 96-60, enacted on August 15, 1979) authorized to be appropriated for fiscal year 1980, $416,277,000 for all activities of ICA. The Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1980, (P.L. 96-68, enacted September 24, 1979) appropriated $396,010,000 for "Salaries and Expenses", of which not to exceed $3,654,600 is to remain available until expended for special international exhibitions, including those provided in the Cultural Exchange Traveling Exhibits agreements between the Soviet Union and the United States. It was estimated in the President's 1980 Budget that funds would be obligated for the Tenth Series of US/USSR exchange exhibits.

Due primarily to delays in completing arrangements with the USSR on the showing of the U.S. exhibit in the Tenth Series of the US/USSR exchange, $2,000,000 of the funds are deferred for the entire year. The funds will be used in succeeding years.

This deferral action is taken in accordance with the Antideficiency Act (31 U.S.C. 665).

Estimated Effects:

There are no programmatic or budgetary effects resulting from this deferral.

Outlay Effect:

This deferral has no effect on outlays because the funds could not be used if made available.

1/ None of these funds is deferred.

Deferral No: D80-35

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: International Communication Agency	New budget authority (P.L. 96-68): $13,012,000
Bureau:	Other budgetary resources: 1,345,000
Appropriation title & symbol: Salaries and Expenses (Special Foreign Currency Program) 67X0205	Total budgetary resources: 14,357,000
	Amount to be deferred: Part of year: $ ____
	Entire year: 1,600,000
OMB identification code: 67-0205-0-1-154	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other ____
Type of account or fund: [ ] Annual; [ ] Multiple-year ____ (expiration date); [X] No-year	Type of budget authority: [X] Appropriation; [ ] Contract authority; [ ] Other ____

Justification: The United States International Communication Agency (ICA) is authorized by the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431 et seq.), the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2451 et seq.), Executive Order No. 11034 of June 25, 1962, as amended, and Reorganization Plan No. 2 of 1977, to carry out international communication, cultural, and educational exchange programs.

The International Communication Agency Authorization Act, Fiscal Year 1980-81 (Public Law 96-60, enacted on August 15, 1979) authorized for fiscal year 1980, $416,277,000 for "Salaries and expenses" and "Salaries and expenses (special foreign currency program)" for ICA. The Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1980 (Public Law 96-68, enacted on September 24, 1979) appropriated $13,012,000, to remain available until expended, for the "Salaries and expenses (special foreign currency program)" account. The account is used for payment of ICA local program expenses in U.S.-owned foreign currencies in those countries where the Department of Treasury determines that the supply of local currency is in excess of the normal requirements of the U.S. Government. In fiscal year 1980, the "excess currency" countries include: Burma, Guinea, India, Pakistan, and Egypt.

It is now estimated that the 1980 beginning-of-year unobligated balance for this account, plus anticipated recoveries and reimbursements from other agencies, will amount to $1,345,000, which is significantly more than the sum estimated in the 1980 Budget.

Primarily as a result of delays in the planned cultural center relocation project in Pakistan, and savings in anticipated wage and price increases and other reduced program requirements, mainly in India, $1,600,000 of the available funds are deferred for the entire year. These funds will be applied to program needs, including the Pakistan center project, in succeeding years.

Estimated Effects:

There are no programmatic or budgetary effects resulting from this deferral.

Outlay Effect:

There is no outlay effect of this deferral, because the funds could not be used if made available.

Deferral No: D80-36

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Railroad Retirement Board	New budget authority (P.L. ——) $ ---
Bureau	Other budgetary resources 27,472,602
Appropriation title & symbol: Regional rail transportation protective account 60X0110 1/	Total budgetary resources 27,472,602
	Amount to be deferred: Part of year $ 1,000,000
	Entire year ———
OMB identification code: 60-0110-0-1-604	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act
Grant program ☐ Yes ☒ No	☐ Other ———
Type of account or fund: ☐ Annual	Type of budget authority: ☒ Appropriation
☐ Multiple-year ——— (expiration date)	☐ Contract authority
☒ No-year	☐ Other ———

Justification: The Regional Rail Reorganization Act of 1973 established a program to reimburse various organizations that provide benefits to employees adversely affected by the creation of the Midwest and Northeast rail system up to the aggregate sum of $250 million. This program--having reached its authorized limit--will terminate in FY 1980. Prior to termination, a closing audit will be undertaken. To allow for any retroactive adjustments the audit may require, while limiting total expenditure to the $250 million authorized, $1,000,000 is being deferred for part of FY 1980. Any funds remaining after required audit adjustments will be expended in accordance with statutory provisions.

This deferral action is taken in accordance with the Antideficiency Act (31 U.S.C. 665).

Estimated Effect: Use of any portion of the amount deferred, including whatever sum is not required to make audit adjustments, will be delayed from one to three months.

Outlay Effect: This deferral action has no effect on outlays.

1/ This account was the subject of a similar deferral during FY 1979.

Deferral No: D80-37

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: President's Commission on Pension Policy Bureau:	New budget authority (P.L. 96-74): $ 2,000,000 Other budgetary resources: 900,000 Total budgetary resources: 2,900,000
Appropriation title & symbol: Salaries and Expenses 48X2300	Amount to be deferred: Part of year: $ ____ Entire year: 700,000
OMB identification code: 48-2300-0-1-601 Grant program: ☐ Yes ☒ No	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act ☐ Other ____
Type of account or fund: ☐ Annual ☐ Multiple-year ____ (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other ____

Justification: The President's Commission on Pension Policy was authorized by the Pension Policy Commission Act, (P.L. 96-14), for a two-year period to research and develop a set of recommendations for a national retirement policy. Funds were appropriated in the Treasury, Postal Service, and General Government Appropriations Act, 1980 (P.L. 96-74) without fiscal year limitation for operating costs of the Commission. Only $2.2 million of the total available is necessary to provide for operating expenses in 1980. The remaining $700,000 is deferred for use in 1981.

This deferral action is taken under the provisions of the Antideficiency Act (31 U.S.C. 665).

Estimated Effects: This deferral action will have no effect on the Commission's program since it simply allows the Commission to spread budgetary resources over its authorized two-year life to cover operating costs.

Outlay Effects: This deferral action has no effect on outlays.

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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/SECRETARY*	USDA/ASCS		DOT/SECRETARY*	USDA/ASCS
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DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
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DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HEW/FDA		DOT/SLSDC	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

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 July 2, 1979, all agencies in the Department of Transportation, will publish on the Monday/Thursday schedule.**

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

Note: There were no items eligible for inclusion in the list of **Rules Going Into Effect Today.**

List of Public Laws

Last Listing November 16, 1979

This is a continuing listing of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202–275–3030).

S. 640 / Pub. L. 96–112 Maritime Appropriation Authorization Act for Fiscal Year 1980. (Nov. 16, 1979; 93 Stat. 847) Price $.75.

H.R. 998 / Pub. L. 96–113 To amend the Agricultural Adjustment Act of 1938, as amended, to exempt State prison farms from paying of marketing quota penalties. (Nov. 16, 1979; 93 Stat. 850) Price $.75.

H.R. 2196 / Pub. L. 96–114 "Congressional Award Act". (Nov. 16, 1979; 93 Stat. 851) Price $.75.

H.J. Res. 68 / Pub. L. 96–115 To authorize the President to issue a proclamation designating the week beginning on November 18, 1979, as "National Family Week". (Nov. 16, 1979; 93 Stat. 856) Price $.75.

H.R. 5279 / Pub. L. 96–116 To provide for the distribution within the United States of the International Communication Agency film entitled "Reflections: George Meany". (Nov. 16, 1979; 93 Stat. 857) Price $.75.

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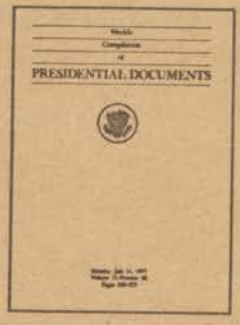
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